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DAYA-CRAMA-SANGRAHA

OF

SRI KRISHNA TARKALANKARA,

TRANSLATED

BY

P. M. WYNCH, Esq.

Second Edition.

REVISED, CORRECTED AND ENLARGED

BY

GIRIS CHANDRA TARKALANKARA,

Pleader, High Court, Calcutta.

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PREFACE TO THE SECOND EDITION.

DAYA-CRAMA-SANGRAHA by Srikrishna Tarkalan-
kar is a work of very great authority of Hindu Law in
the Bengal School. Mr Wynch's Translation has long
been out of print. The Editor therefore believes that a
second edition of this work will be acceptable to the
public. In order to enhance its usefulness, he has given
foot notes abstracts of important Rulings. A Table
of Cases cited, and a Copious Index have been also
added.

The Editor deeming it advantageous to the pub-
lic, has also published the original work, and for easy
reference has divided it into Chapters, Sections, and
Paragraphs, corresponding to those of its translation.

GIRIS CHANDRA TARKALANKARA.

September, }
1878. }

P R E F A C E

BY

MR. P. M. WYNCH.

THE Translation of the following Treatise on the *Hindoo Law of Inheritance* was commenced, during a study of the *Sanskrita* Language and Hindoo Law; and although sometime ago completed, the publication has been unavoidably retarded, by circumstances connected with the performance of official duty.

Of the Treatise itself, MR. H. COLEBROOKE in the Preface to his Translation of the *Dáya-Bhāga* and *Mitīśharī*, has observed: "An original Treatise by SRI CRISHNA TERCALANCARA, "entitled *Dáya-Crama-Sangraha*, contains a good Compendium of the *Law of Inheritance*, according to JIMUTA VAHANA's Text, as expounded in his commentary of the *Dáya-Bhaga*."

The publication of the original, will be sufficiently justified by this high authority, and under the sanction of it, the Translation was undertaken.

Of the necessity of a careful and diligent study of the *Law of Inheritance*, the learned gentleman above mentioned, has justly remarked: "In proportion as the Law of Succession is arbitrary and irreducible to fixed and general principles, it is complex, and intricate in its provisions, and requires on the part of those entrusted with the administration of justice, a previous preparation by study; for its maxims cannot be rightly understood, when only hastily consulted as occasions arise."

Under an impression, therefore, that advantage may be derived from the publication of a *Compendium* on this subject, unembarrassed by argumentative discussion, and unencumbered by lengthened disquisition,

this Work is offered, for the purpose of affording assistance to those entrusted with the due administration of justice in the Province of Bengal, who by want of leisure, or other causes, are debarred from an attentive perusal of the admirable Translation of the elaborate Work of JIMUT. VAHANA, or from a recourse to the original.

Should it however, serve but as a guide to the study of either :—Should the English judicial officer through its aid, be better enabled to determine the accuracy, and in consequence, more readily to detect the fallacy of an opinion delivered by the Pundit of his Court, the time devoted to this Publication, will not have been spent in vain.

The mere labor of Translation has been comparatively insignificant, the Treatise being short, and the style of the original, simple and easy.

A Tabular Sketch, exhibiting the successors to the Property of one deceased, and the order in which they are respectively entitled to inherit, has been added to the first Chapter. The numbers affixed in the Table, correspond with those of the marginal notes, in that Chapter :—an arrangement, by which it was intended to facilitate reference.

The Versions of the Texts of the divine Legislator, and of the Sages of Antiquity, cited in this Treatise, have been adopted from the Works of SIR WILLIAM JONES and MR. HENRY COLEBROOKF.

1818.

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DAYA-CRAMA-SANGRAHA :

AN ORIGINAL TREATISE

ON THE HINDU LAW OF INHERITANCE.

Having placed in mind the couple of feet of the mother of universe, which feet destroy all perils and which are the cause of creation, preservation and destruction of the millions of worlds, Sreekrishna Surma compiles the Order of Succession which is pleasing to Pundits.*

CHAPTER I.

ON THE ORDER OF SUCCESSION TO THE ESTATE OF A DECEASED MAN.

SECTION 1.

Right of Succession by the Son, Grandson, and Great-Grandson.

1. The order of succession to be observed by heirs in regard to the property of a deceased man, is as follows :

* This was omitted by Mr. Wynch.—G.

2. First, his legitimate son succeeds in conformity with this text. "After the

1. Son.

death of the father and mother, the

brethren being assembled, must divide equally the paternal estate : For they have not power over it, while

their parents live,"* and other texts of a like import which declare the right of the son to succeed on the decease of the father.

3. In default of the son, the grandson takes the inheritance ; and failing him, the

2. Grandson.

great-grandson. But a grandson^(D)

3. Great-grandson.

whose father^(B) is dead, and a great-

grandson^(F) whose father^(E) and grand-father^(C) are dead, participate equally in the inheritance with the son,^{(A)†} for they without distinction confer equal benefits on the deceased owner of the property, by the presentation to him of funeral offerings at solemn obsequies.

NOTES.

* MENU, 9. 104.

† Owner died, leaving 3 Sons.		
A	B	C
Son. (living.)	Son. (dead.)	Son. (dead.)
	D	E
	Grandson. (living.)	Grandson. (dead.)
		F
		Great-grandson. (living.)

4. But during the life-time of their parents, neither the grandson, nor the great-grandson, are entitled to the inheritance, since they do not confer any benefits on the deceased by the presentation of the funeral offering at solemn obsequies.

SECTION 2.

Widow's right of Succession.

1. In default of the (son)* grandson and great-grandson, the widow succeeds to the estate, in conformity with the text of YAJNAWALKYA. "The wife and the daughters, also both parents, brothers likewise and their sons, gentiles, cognates, a pupil and a fellow student : On failure of the first among these, the next in order is indeed heir to the estate of one who departed for heaven, leaving no male issue. This rule extends to all classes." (a)

* The original text stands thus ; "In default of these (the son, grandson and great-grandson,)"—G.

(a) Coleb. Dā. Bh., Ch. XI. S 1., paras. 3 & 31 ; 3, Coleb. Dig., p. 457 ; Dā. T., p. 63, para. 13 ; 1, Mac. II. L., p. 19 ; Giris C. ed., p. 21 ; 1, Str. H. L., p. 121 ; Elb. Inh., p. 72, S. 163 ; Vyv. Durp., pp. 23, 28.

She succeeds in preference to her husband's brother. Chunder Kaunt Surma, 6, W. R., 61 ; Radhachurn Rai, 1, Sel. Rep., 33 ; new ed. 44 ; Kalipersad Rai, 2, Ibid., 237 ; new ed. 305 ; Rajbullab Bhoyan, 1, Ibid., 44 ; new ed. 59 ; Sreenath Surma, 1, Ibid., 15 ; new ed. 19 ; Bhoyroo Chand Rai, 1, Ibid., 27 ; new ed. 36 ; Neelkant Rai, 1, Ibid., 58 ; new ed. 77 ; Radhamonee Dabia, 1, Ibid., 85 ; new ed., 161 ; 2, Macn H. L., p. 81. She takes husband's share in joint ancestral property. Kalepersad Roy 2, Sel. Rep., 237 ; new ed. 305.

The estate of two widows, who take their husband's property by inheritance, is one and the survivor takes the whole property to the exclusion even of daughters of the deceased widow, Bhugwandeem Doday, 11, M. I. A., 487 ; Brojessery Dossce, Easte's Notes, Case 54. Gobin Chunder Mozoomder, 23, W. R., p. 125.

A Hindu widow in whom the property of her husband has once vested does not forfeit by her unchastity her right to such property. Kery

Rule to be observed by the widow in regard to the estate of her deceased husband.

2. Here however, a particular rule is to be observed.

3. The wife is only to enjoy the estate of her deceased husband—she must not make a gift, mortgage, or sale of it.—So, CATYAYANA declares, “Let the childless widow preserving unsullied the bed of her lord,

Kolitary, 13, Beng. L. R., p. 1; Srinutti, Matunginee, 5, Ibid, 51; But the law was otherwise till lately, 2, Macn. H. L., pp. 20, 21, 112; Moharaneer Bussunt Koomaree, 7, Sel. Rep., p. 144, new ed., p. 168; Rajcoomaree Dossee, S. D. 1858, p. 1891; Radhamoney Raur, Mon. II. L. Cases, p. 314.

She does not lose her right by removing from her husband's dwelling house. Oma Dabea, 7, Sel. Rep., 270; new ed., 323; Panchowree Mathoon, 9, W. R., 490; Umrit Koowaree, 3, Agra Rep., 182.

A widow cannot inherit property left by her husband's relatives or their widows, 2, Macn. H. L., 29. Jymunee Dabia, 3, Sel. Rep. 289, new ed. 385; Ranjee Lal, 7, W. R., p. 141, Wopendro Mohun Tagore, 3, B. L. R., 349.

Under Sections 2 and 5 of Act XV. of 1856, the fact of remarriage does not deprive the widow of any right of inheritance which may accrue to her after such remarriage. It is only with respect to rights and interests which the widow may have acquired by inheritance from her husband or from his lineal successors, previous to her remarriage, that the Act intended to work a forfeiture. Akora Suth, 2, Beng. L. R., 199; Heera Sing, 5, Punjab Record, 45; Kaisho, 7th Aug. 1866. 1, N. W. P. R., 140.

A widow who remains chaste and is debarred from inheriting her husband's estate, is entitled to maintenance. Jadumani Dasi v. Kheytramohun Shil, 21st July, 1854, *Englishman*, dated 26th July, 1854. 2, Rattig. H. L., 202.

Hindu females cannot be deprived of their right to maintenance by a will which does not expressly exclude them. Raneer Hurrosoondery v. Koowar Kristonath. Fulton's Rep., 393; Sonatun Bysak v. Juggutsoondree Dossee, 8, M. I. A., 66.

Right to maintenance is not forfeited by leaving her husband's family. Ahollya Bai v. Lukhee Monce, 6, W. R., 37; Sreeram Bhuttacharjee v. Puddmookhee, 9, W. R., 152; Umrit Kowaree v. Kedarnath Ghose, 21st March, 1868. 4, H. C., N. W. P. Rep., 182.

A claim by a Hindu widow for an allowance from her husband's family, was dismissed on proof of such impropriety of conduct on her part as, in the opinion of the Court, deprived her of her all legal claim, according to the Hindu law, to a maintenance from them. Maha Raneer Bussontoomaree v. Maha Raneer Kamulcoomaree. 7, Sel. Rep., 144; new ed. 168.

Under the Hindu law, a wife who, without her husband's sanction,

and abiding with her venerable protector, enjoy with moderation the property until her death. After her, let the heirs take it.”(b)

4. “ *Abiding with her venerable protector*,” that is, having settled with her father-in-law, in her husband’s family, let her so long as she lives, enjoy her husband’s estate, and not (as she is entitled to do with her peculiar property,) make at will a gift, mortgage, or sale of it.

5. On her decease, those daughters who would be entitled to the succession in default of the wife, take the estate ; and not the kinsmen, who by reason of

leaves him to live with her own family, has no right to ask maintenance from her husband. *Kulleanessary Dabea v. Dwarkanath Surma*. 6, W. R., 115.

According to Hindu law, as current in Bengal, the widow of a son, who has died leaving nothing, cannot compel her deceased husband’s father who has no ancestral property or any property upon which the plaintiff’s maintenance is a charge, to make her a pecuniary allowance by way of maintenance, if she refuses to live with him as a member of his family. *Kassinath Dass v. Khetter Money Dossi*, 9, W. R., 413. The Bombay High Court has held that a Hindu father-in-law is legally bound to maintain his deceased son’s widow, notwithstanding that no property left by the son may have come into his hands. *Udaram*, 10 Bom. H. C., Rep., 483.

A Hindu father and son lived joint in food and worship, but separate in estate. Held, that the widow of the son has no legal claim upon the father-in-law. *Rajjomonney Dossee v. Shib Chunder Mullik*. 1864 ; 11y ‘les’ Rep. 103.

(b) Coleb. Dá. Bh., Ch. XI., S. 1, para. 56. 3, Coleb. Dig., pp. 471, 472, 476. 1, Macn. H. L., p. 19, Giris C. ed., 22 ; Elb. Inh., pp. 72, 73.

A widow succeeding to the landed estate of her husband takes only a life interest. *Muhada*, 1, Sel. Rep., 62, new ed., 82 ; *Radhamonsee Dabea*, 1, Ibid, 85, new ed., 113 ; *Bijya Dabea*, 1, Ibid, 162, new ed., 215 ; *Nund Coomar Rai*, 1, Ibid, 292? new ed., 349 ; *Bhuwani*, 1, Ibid, 322, new ed., 431 ; *Hem Chunder Mozoomdar*, 1, Ibid, 359, new ed., 481 ; *Kalipersad Rai*, 2, Ibid, 237, new ed., 305 ; *Pokhnarain*, 3, Ibid, 114, new ed., 152 ; *Lallchi Koonwar*, 7, Ibid, 22, new ed., 26 ; *Sheopersad Singh*, 7, Ibid, 22, new ed., 26 ; *Joran Koonwar*, 7, Ibid, 26, new ed., 30 ; *Kishenmunee*, 3, Ibid, 228, new ed., 304 ; *Joygopal Rai*, S. D., 1854, p. 274 ;

their inferiority to the daughters, and the rest of the heirs, cannot obstruct their claim. Thus it is written in the "*Dána Dhárma*:" "For women, the heritage of their husbands is pronounced applicable to use.—Let not women on any account make waste of their husband's wealth."—This use even should not be made by wearing delicate attire, or indulging in other luxuries : but since a widow benefits her husband by the preservation of her body, the use of property for the attainment of this object is permitted.—In like manner, she may make a gift or other disposal for the sake of com-

Gungagobind Rai, 1. W. R., 60; Kishnógobind Sen, Macn. Con. H. L., 18 ; 2, Macn. H. L., 32, 33, 35, 48, 123.

She has no power to alienate her husband's property moveable, or immovable. Bhug-wandeen v. Myna Bacc, 11, M. I. A., 487.

A Hindu widow can dispose of the income of her husband's estate as she pleases ; but her power over accumulations is restricted in the same way as in the case of Corpus. Kailasnath Ghose, 4, Beng. L. R., 41 ; (note.) In the case of Chundrabali Dabi, it was ruled that while a Hindu widow could make the fullest use of the usufruct of the estate during her life, whatever part she left behind became the property of the next heir, and was not liable for the widow's personal debts. 9, W. R., 584. It has also been held that purchases made by a widow, with funds derived from the husband's property, do not belong to her, otherwise than as the land from which the money arose, belonged to them. Nihal Khan, 24th Nov. 1866. 1, N. W. P. R., 219. Gendu Koer, 14, B. L. R., 159. A Hindu widow has no greater power of alienation over the profits than she has over the *corpus* of her husband's estate whatever she purchases out of those profits is an increment to that estate. Mt. Bhagbuttee, 2, C. I. A., 256; Rabutty Dossee, 6, M. I. A., 1. In the case of Soorju Monee Dassee, 9, M. I. A., 123, the Privy Council held, that a Hindu widow was entitled only to the interest of the accumulations which had accrued to the estate from the death of the testator, her father-in-law, to the death of his son, her husband, but that she is absolutely entitled to the farther accumulations which had accrued since the death of her husband. *Vide* Puddo-monee Dossee, 25, W. R., 235.

A Hindu widow cannot endow an idol with her husband's property or a portion thereof, to the detriment of the reversioners. Kartic Chunder Chuckerbutty, 1, W. R., 48.

She cannot bequeath her husband's property, Keerut Sing, 2, M. I. A., 331 ; Goburdhun Nath, 3, W. R., 105 ; Teen Cowry Chatterjee, *Ibid*, 45, Choonee Lal, 1, Borr., 55 ; Doolub Dace, 1, Borr., 67.

pleting the funeral rites of her husband. Accordingly the expression "*waste*" is particularly made use of in the text above cited, and in other texts likewise. "*Let not women make waste.*" By "*waste*," is meant expence unproductive of benefit to the owner of the property.

6. But, if the widow be unable to subsist otherwise, she may mortgage the property ; and, if even then unable, she may sell it.(c)

7. She should give to the paternal uncles, and to the other relations of her husband, presents in proportion to the wealth, for the sake of his funeral rites ; VRIHASPATI has ordered it by the following text. " With presents offered to his manes, and by pious liberality, let her honour the paternal uncles of her husband ; his spiritual pastor, and daughter's sons, the children of his sisters, and his maternal uncles ; also ancient and unprotected persons, and females of the fami-

(c) Coleb. Da. Bh., Ch. XI. S. 1, paras. 61—63. 3, Coleb. Dig., 458, 462. 1, Maen. II. L., 19, Giris C. ed., 22.

She may mortgage or sell of her husband's property if necessary for the spiritual benefit of her deceased husband or for her own subsistence. Bissanath Dutt. 4th July, 1815. Easte's Notes, Case 34 ; Hem Chund Mojoondar, 1, Sel. Rep., 359, new ed. 481 ; Gocul Chund Chukerbatti, 2, Ibid., 117 ? new ed., 213, Ram Chunder Surma, 4, Ibid., 117, new ed., 147. Chowdoory Junmenjoy Mullick, 10, W. R., 309 ; Unrootum Byragee, 2 Borr., 201. ~~For payment of rent and to save the estate.~~ Prannath Roy, 5, Sel. Rep., 37, new ed., 44 ; Bulodas Ram Tewary, 4, Wym. 7, for Government Kist. Sreenath Roy, S. D., 1859, 421.

A mere declaration of necessity is not sufficient to justify a purchase from a widow, Gungagobind Bose, 1, W. R., 60. A pilgrimage to Benares is not a legal necessity to justify a sale by a widow. Hurumohun Adhichary, 1, W. R., 252. For digging of a tank is not legal necessity for which a Hindu widow can alienate property left to her for her life only. Runjee Ram, 21, W. R., 49.

ly." By the term "*paternal uncle*," is meant any relation of her husband included within the degree of relationship, termed "*Sapinda*." The term "*daughter's sons*," relates to the progeny of her husband's daughter. By "*sister's sons*," the descendants of her husband's sister's son are indicated. "*Maternal uncles*," that is the maternal uncles of her husband. On these and on the others should she bestow presents, and not on the members of the family of her own father, while these persons are living, for then the specification of "*paternal uncles*," and the rest would be superfluous—With their consent however, she may make gifts to the kindred of her own father and mother, as declared by NAREDA. "When the husband is deceased, his kin are the guardians of his childless widow.—In the disposal of the property and care of herself, as well as in her maintenance, they have full power. But if her husband's family be extinct, or contain no male, or be helpless, the kin of her own father are the guardians of the widow, if there be no relations of her husband within the degree of a *Sapinda*."—"In the disposal of property," that is by gift, &c., the wife is liable to the

With the consent of the heirs or reversioners, she may alienate her husband's real property. *Goculchund Chuckerbutty*, 2, *Sci. Rep.*, 167, new ed. 219; *Brindabunchund Rai*, 4, *Ibid*, 143, new ed. 180, *Gunput Singh*, 5, *N. W. P. R.*, 202, *Koshalee*, *N. W. P. R.* for 1851, Case 191, *Doorga Dutt Panday*, *Ibid* for 1856, Case 26, see *N. W. P. R.* for 1860, p. 223, *Raj-lukee Dabia*, 12, *W. R., P. C.*, 47, *Brojonath Bysak*, 3, *B. L. R., O. J.*, 92.

The parties whose consent necessary, are the immediate heirs. *Ramdhone Buxshee*, *S. D.*, 1853, 641, *Ramashien*, *Mad. S. D.*, 1849, 115, *Georobaksh*, *Ibid*, 1850, 61.

She can alienate her life interest in her husband's real estate. *Tarok-nath Chatterjee*, 1, *W. R.*, 223; *Gobindmonee Dossee*, *Suth. F. B.*, 165;

control of the family of her husband, after the death of her husband and on failure of sons ;—So it is declared in the *Dāya-Bhāga*. In the present time a widow is exclusively of the same class with her late husband, since marriage with a woman of unequal class is prohibited during the *Cali*, or iron age.

SECTION 3.

On the right of the Daughter.

1. In default of the wife, the daughter next succeeds in conformity with the following text of DEVALA, (and other texts likewise.) “His own maiden daughter, born in holy wedlock, shall like a son take the inheritance of him who dies without male issue.” “*His own*,” that is of the same tribe ; “*Born in holy wedlock*,” legitimate. (d)

2. The unmarried daughter is first entitled to the succession. PARASARA declares, “Let a maiden daughter take the heritage of one who dies leaving no male issue ; or, if there be no such daughter, a married one shall inherit.” (e)

Fareem Churn Banerjee, 1, W. R., 47 ; Kristomony Dossee, 6, W. R., 30? ; Juggut Rai, S. D., 1831, p. 274 ; Radha, W. R., July 1864, p. 148 ; Ram Shewuk Rai, 8, W. R., 519 ; Nobin Chunder Chuckerbutty, 9, W. R., 503 ; Haradhum Nag, 6, W. R., 222.

(d) Coleb. Dā. Bh., Ch. XI. Sec. II. paras. 1 and 3 ; Vyv. Durp. 165 ; 3, Coleb. Dig. 490, 491 ; Dā. T. 66 ; 1, Macn H. L. 21 ; Elb. In Sect. 168, p. 75.

A daughter will succeed to her father leaving neither male issue nor a widow, provided such daughter be mother of a son, or likely to become so. Judadhur Surma, 1, Sel. Rep., 6 ; new ed. 7 ; Bijya Dabea, 1, Ibid. 162 ; new ed. 215 ; Rajchunder Das, 3, Ibid. 361 ; new ed. 482 ; Hury Das Dutt, 1, M. I. A., 433 ; Ramjoy Sett, East's Notes Case, 33.

(e) Coleb. Dā. Bh., Ch. XI. Sec. II. para. 4 ; 3, Coleb. Dig. 490 ; 1, Macn. H. L. 31 ; Elb. In 75 and 76 ; Vyv. Durp. 166.

3. The following special rule must be here observed, namely, that, if a maiden daughter in whom the succession had once vested, and who was subsequently married, should die without having borne issue,* the married sister who has, and the sister who is likely to have male issue, inherit together the estate which had so vested in her. It does not become the property of her husband or others, for their right is exclusively to a woman's separate property (*Strīdhm.*) (f)

* "Without having borne issue." This translation is not in accordance to the text. It should be rendered thus, "without leaving any son."—G.

(f) If one of several daughters, who had, as maidens, succeeded to their father's property, die leaving sons and sisters or sister's sons, then, according to the law of Bengal, the sons alone take the share to which their mother was entitled to the exclusion of the sisters and sister's sons. 1, Macn. H. L., 23; Giris C. ed. 27. Conformably to this doctrine, a case which originated in the zillah Court of Rungpore, was decided by the Sudder Court on the 19th of April 1829, in which it was determined, (3, Sel. Rep., 26; new ed. 35), that property inherited by a maiden daughter goes at her death to her son or grandson, to the exclusion of her sister and sister's son. The above ruling has been followed in a recent case. Radha Kishen Manjee, 6, W. R., 147. These rulings however do not appear to be consistent with the general principles of Hindu law, as the unmarried daughter does not acquire an absolute right in the property inherited by her, and the property therefore on her death ought to go not to her heirs, but to those of her father, who in the case supposed, would be her married sisters, or sisters having male children, or, in their default, the sons of her father's daughters then living, who would take *per capita*.—This subject has been discussed at great length in the Vyavastha Dugpun, 2nd ed., 167.

Para. 30, Section 2, Chapter XI. of the Dā. Bh., seems to be conclusive on the point.

In a very recent case it was held that according to the Mitacshara, as well as Daya Bhāga the unmarried daughter takes the whole of the property in preference to her married sisters; but under the Mitacshara she only takes in priority to them and not to the ultimate exclusion of their right to inherit from their father. On her death it goes, according to the ordinary rules, to the next surviving heir of the last full owner of the property. Dowlut Koer, 22, W. R., 54; Chotay Lall, 22, W. R., 496.

A daughter taking her father's property on the death of a widow in default of a son, takes a qualified power as regards alienation; and on her death, the heir of her father succeeds as his, not as her heir. Dev Pershad, 1, W. R., 162; Chotay Lall, 22, Ibid, 496.

4. But, if there be no maiden daughter, then the

And in her default, the married daughter who has, and the married daughter who is likely to have male issue : failing one, the other succeeds.

daughter who has, and the daughter who is likely to have male issue, are together entitled to the succession, and on failure of either one of them, the other takes the heritage in conformity with the text of PARASARA above cited :—also the text which says “ Being of equal class, and married to a man of a like tribe, and being virtuous and devoted to obedience, she [namely, the daughter] whether appointed or not appointed to continue the male line, shall take the property of her father who leaves no son, [nor wife ;]” and because both descriptions of daughters [appointed, or not appointed] confer without distinction benefits on the deceased owner, by presenting to him through their sons funeral oblations at solemn obsequies. (g)

(g) Coleb. Da. Bh., Ch. XI. Sec. II. para. 8 ; 3, Coleb. Dig. 490—492 ; Da. T. 66 ; 1, Macn. H. L. 21 ; Vyv. Durp. 168.

Married daughters are not excluded from succession by either Dāya Bhāga or Mitaeshara. Benode Koomaree, 2, W. R., 176. The interest of a daughter in the estate of her deceased father, is of the same nature as that of a widow. Hurydas Dutt, 6, M. I. A., 433.

In the case where two daughters succeeded to their father's estate, and one of them died leaving her sister then a childless widow, and a son, a question may arise whether the property inherited by the deceased female would be taken by her son, or would devolve upon the sister though then disqualified to inherit. There are opinions both ways : some lawyers are of opinion that the surviving sister being a childless widow and (therefore) incompetent to inherit, the property should devolve on the son of the deceased.* But others maintained that the surviving sister's being disqualified to inherit at the time of her sister's death is no bar to her taking her father's property left by the sister, because she does not inherit her sister's property so that her disqualification at the time of her death should not be taken into consideration and because like wives† the

* This opinion is according to the general principle of the Law. 2, Macn. H. L. 41—46.

† Macn. H. L. preliminary remarks, xii, xiii.

5. The doctrine maintained by DICSHITA, and respected by the author of the *Dāya-Bhāga*, namely, That in default of daughters having, and daughters

likely to have male issue, daughters who are barren, or widows, destitute of male issue, are incompetent to take the inheritance, because they cannot benefit the deceased owner by offering [through the medium of sons] the funeral oblation at solemn obsequies, should be understood. (h)

two daughters were, in the legal sense, held to be one and the same heir collectively succeeding to, and holding, their father's property, which on the death of one would of course remain in the hands of the other. This (after) opinion is maintained by the High Court in its Original Jurisdiction, see Case No. 66 of 1865. *Baidya Nath Sett v. Doorga Churn Bysak* decided 28th of Feb. 1865, by Hon. W. Morgan who consulted the Hon. Shumbhoo Nath Pundit on the point in question, *Vyavastha Darpan*, 2nd ed. 170; And the Judicial Committee of the Privy Council held out similar views viz. that according to Hindu law, a right once vested in a daughter by inheritance does not cease until her death, notwithstanding that she became barren, or a widow who had not borne a son. Circumstances of that nature do not destroy a heritable right which has once vested. Therefore when two sisters upon the death of their mother, together become their father's heir, then upon the death of one of them, the property which descended to both jointly, survives to the other whose right of survivorship was previously acquired by inheritance and is not destroyed by her disqualification to inherit at that time by reason of her being a childless widow. *Amrit Lal Bose v. Rajanee Kant Mitter*, 23, W. R., 214; 15, B. L. R. 10.

In the case of *Bugwandeen Dobay v. Mayna Bacc*, 11, M. I. A. 487; 9, W. R., P. C., 23. It was similarly held by the Judicial Committee that the estate of two widows, who take their husband's property by inheritance is one estate. "The right of survivorship" it is there said is so strong, that the survivor takes the whole property, to the exclusion even of daughter of the deceased widow.

(h) Coleb. Da. Bh., Ch. XI. Sect. II. para. 3; 1, Macn. II. L. 21; Elb. In. 76; Vyv. Durp. 169.

A childless widow daughter can never inherit. 29th July, 1862, *Haye's Rep.*, 67; Marshall, 29; 1, Indian Jurist, 22.

A prostitute daughter living with her prostitute mother, succeed to the mother's property in preference to a married daughter living with her husband. *Taramonee Dossee*, 7, Sel. Rep., 273, new ed. 325.

SECTION 4.

On the right of the Daughter's Son.

1. In default of all daughters [who are entitled to succeed,] the daughter's son takes the inheritance according to the text, "Let the daughter's son take the whole estate of his own father who leaves no [other] son; and let him offer two funeral oblations; one to his own father, the other to his maternal grandfather,*" and other texts of a like import. "*Of his own father*," here means his mother's father.† Leaving "*no [other] son*," is here used indefinitely to signify a failure of heirs, including the daughter, otherwise it would contradict the text of YAJNAWALKYA, "The wife and daughters, &c." [Sec. ii. § i.](i) (i)

NOTES.

* MENU, 9. 132.

† Deceased owner.

Daughter's husband.

Son.

(i) (j) Coleb. Da. Bh., Ch. XI., Sect. II., paras. 17, 19, 25, 29.
3, Coleb. Dig. 498; 1, Macn. II. L., 23; Ellb. In., 77; 2, Macn. H. L., 4, 44, 47, 49, 50, 51, 186; Vyv. Durp. 179.

~~If there be sons of more than one daughter, they take per capita and not per stirpes.~~ Swaruth Pandey, 21st Feb. 1867. 2, H. C. Rep., N. W. P., 168; Ramdhun Sen, 3, Sel. Rep. 100, new ed. 133.

A daughter's son during the life-time of his mother is not competent to challenge the act of his maternal grand-mother, for the mother is the preferential heir. Rauna Kishen, 18th June, 1866. 1, H. C. Rep., N. W. P., 1.

~~According to Hindu law a deceased daughter's son has no right of inheritance to the estate of his maternal grand-father during the life-time of any of his mother's sisters.~~ Mt. Ramden, 1, N. W. P., 114.

2. The opinion maintained by GOVINDA RAJA, namely, That on failure of a son, [grandson and great-grandson] the daughter's son is entitled to the inheritance notwithstanding the existence of the daughter, is consequently refuted by the text above quoted.

3. The followers of the *Maithila* school assert, that the daughter's son is entitled
 Opinion refuted. to the heritage after the whole of the heirs enumerated in the text of YAJNAWALKYA just alluded to, and in other various texts. This is wrong; for since a series of heirs is recounted, ending with the king, whose demise never occurs, it must necessarily result that the daughter's son could not obtain the inheritance at all, and the texts declaratory of his right would then be irrelevant.(k)

SECTION 5.

On the Father's right of Succession.

1. If there be no daughter's son, the father is next entitled to the succession in conformity with the text of CATYAYANA, who says: "In the case of disjoined parceners, on failure of a son, the father obtains the wealth," and

(k) Coleb. Dā. Bh., Ch. XI. Sect. II. para. 23.

The author of Vivada Chintamani, a Mithila Work, has omitted the daughter's son from the series of heirs; but according to other authorities, including Mithila legal writers, the right of the daughter's son, next to a daughter, is declared. In a claim by a daughter's son, the Court held that such daughter's son is heir, disregarding his omission in the said work, and thus ruling that the position in the Daya Crama Sangraha, that a daughter's son, according to Mithila writers, is not an heir, is erroneous. Soorja Kumari, 6, Sel. Rep. 142; new ed. 168.

also, because he (the father) confers benefits on the deceased owner by the presentation of two funeral oblations (namely, to his own father and grandfather) in which the deceased owner participates. VACHESPATI MISRA, (and others) by adopting a different reading in this text of VISHNU, "The wealth of him who leaves no male issue, goes to his wife : on failure of her, it devolves on daughters : if there be none, it belongs to the father : if he be dead, it appertains to the mother," namely, "*If there be none, it belongs to the mother, and if she be dead, it appertains to the father,*" have declared the mother's right of succession to precede that of the father.^(l)

2. This is not correct ; for the reading established by the original text of VISHNU, is the reverse [of that which they have adopted] namely, "*If there be none, it belongs to the father, if he be dead, it appertains to the mother.*" It has also been thus transcribed by all authors ;—Besides the other reading is at variance with the text of CATYAYANA above cited ; and further, since the superiority of the male is deduced from the following part of a text of MENU, "In a comparison between the male and female sex, the male is pronounced the

(l) Coleb. Dá. Bh., Ch. XI. Sect. III. paras. 1 and 3 ; 3, Coleb. Dig. 504 ; Elb. In., 77 ; D's T., 67 ; 1, Macn. H. L., 25 ; Vyv. Durp. 166.

The doctrine of Hindu Law that a father takes a share in his son's self-acquired property applies only to cases of families in joint estate but not where separation in estate has taken place. Anund Mohun Pal, W R for July 1864, p. 352.

superior,*" it is most conformable to the intention of the law that the father's right of succession should precede that of the mother.

SECTION 6.

On the Mother's right of Succession.

1. In default of the father, the succession devolves on the mother, in conformity with the text of VISHNU above quoted, "If he be dead, it appertains to the mother," &c. [~~Sec.~~ v. § i.](m) ;

NOTE.

* MENU, 9. 35.

(m) Coleb. Da. Bh., Ch. XI. Sect. IV. paras. 1 and 4; Da. T., 67; 1, Maen. H. L., 25; 2, Ibid, 59, 60. Elb. In, 77; 3, Coleb. Dig., 505; Vyv. Durp 167.

By the law as current in Bengal, the mother succeeds in default of son, grandson, and great-grandson, in the male line, wife, daughter, daughter's son, and father. Hemlutta Dibbea, 7, Sel. Rep., 108; new ed. 127. Tara Soondery, 12, W. R. 78

The right which a Hindu mother has in property inherited from her son, is the same as that which a widow has in property from her husband; and where a mother inherits from her son, the estate goes on her death not to her own heirs, but to the nearest heir of her deceased sons. Bijya Dabea, 1, Sel. Rep., 162; new ed., 215. Nuffer Mitter, 4, Ibid, 310; Hemlutta Dibbea, 7, Ibid, 108, new ed. 127; P. Pachi Raza, 2, Mad H. C. R., 402.

The mother of a deceased Brahmin, who left a widow, has no interest in his property, nor can she derive any from any agreement with the widow to divide it. Joymonce Dabea, 4, Sel. Rep., 337; new ed. 429.

According to Hindu Law as current in Bengal that a son cannot evict his mother or authorise a purchaser to do so, without providing some other suitable dwelling for her. Mangala Debi, 4, B. L. R. O. J. 72.

~~A step-mother has no right of succession according to Hindu law~~ as current in Bengal. 2, Maen. H. L., 62; Coleb. Da. Bh., Ch. XI. Sect. VI. para. 3; Naraince Dabea, 1, Sel. Rep., 39; new ed., 52; Luckhy Priya, 5, Ibid, 315, new ed. 369; Bhoyroobce Dossee, 6, Ibid, 53; new ed. 61; Lalla Johee Lall, Sevestres' H. C. Rep., 439; Ahladmonce Dossee, S. D., 1852, 23rd June, p. 563; Lala Jotelall, Suth. F. B., 173; Akora Suth, 2, B. L. R. 199.

2. VRIHASPATI also says, "Of a deceased son, who leaves neither wife nor male issue, the mother must be considered as heiress, or by her consent the brother may inherit:" for the mother confers benefits on the deceased owner by the birth of his brother, who offers three funeral oblations to the father, grandfather, and great-grandfather of the deceased owner in which he participates.

SECTION 7.

On the Brother's right of Succession.

1. On failure of the mother, the succession goes to the uterine or whole brother, who offers three funeral oblations to the father, grandfather, and great-grandfather of the deceased owner, in which he participates. (n)

2. If there be no uterine or whole brother, the half brothers of the same class with the deceased are entitled to the succession, since they also offer three funeral oblations to the father and the other ancestors above named of the deceased owner in which he participates, and because the text of YAJNAWALKYA specifies, "Both parents,

A mother is entitled to be recognized as heir to her son, notwithstanding her second marriage. Akora Suth, 2, B. L. R., A. C., 199.

A mother is entitled to a share on partition made by her sons. Shib Chunder Bose, Macnaghten's Cons. H. L., 62; Goorooopersad Bose, Ibid. 29, 72. Jodunath P. Sircar, 12, B. L. R., 385.

(n) Coleb. Da. Bh., Ch. XI. Sect. V. paras. 1, 8, 9, 11; 3, Coleb. Dig. 507; 1, Macn. H. L., 26; Elb. In., 78; Vyav. Durp., 2nd ed., 204; Da. T., 67; Gudadhur Surma, 1, Sel. Rep., 6; new ed., 7; Roodro Chunder Chowdhury, 3, Ibid, 106; new ed., 142; Joymonce Divia, 3, Ibid, 289; new ed., 385; Rajchunder Dass, 3, Ibid, 361; new ed., 482.

brothers likewise," [Sec. ii. § i.] the succession devolves on sons born of a different mother, for they are begotten by the same father. (*o*)

3. Hence if there are two brothers, the one uterine, and the other a half brother, and both were unassociated with the deceased owner, the uterine brother exclusively takes the wealth of his uterine brother in conformity with the text. "An uterine brother shall thus retain or deliver the share of his uterine relation." (*p*)

4. Where an associated half brother, and an unassociated whole brother are the competitors for the succession, it devolves equally on both of them in conformity with the text. "A half brother being again associated, may take the succession." (*q*)

5. Where uterine and half brothers compete, and both were associated with the deceased, the associated whole brother exclusively takes the inheritance, for in this case he possesses a double title [namely, his being uterine, and also associated,] in conformity with the text. "A reunited [brother] shall keep the share of his reunited [coheir] who is deceased." (*r*)

(*o*) Coleb. Da. Bh., Ch. XI. Sect. V. para. 9; 3, Coleb. Dig., 507—12; 1, Macn. H. L., 26; Da. T., 30; Elb. In., 78; Vyv. Durp., 203.

Ram Chunder Surma, 4, Sel. Rep., 117; new ed., 147; Burcham Deo Roy, 2, W. R., 123.

(*p*) Beer Chunder Jobraj, 1, W. R., 177; Issur Chunder Chowdooree, 5, Ibid., 21.

(*q*) 3, Coleb. Dig. 507—12; Da. T., 67; Coleb. Da. Bh., Ch. XI. Sect. V. para. 15.

(*r*) By the Hindu law as current in Bengal a brother of the whole blood succeeds in the case of an undivided immoveable estate in preference to a brother of the half-blood. Rajkishore Lahory, 1, I. L. R., 27.

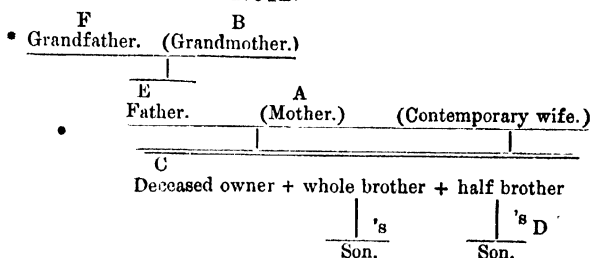
6. The same order of succession must likewise be observed in the case of nephews of the whole and nephews of the half blood.

SECTION 8.

On the Nephew's right of Succession.

1. In default of brothers, the brother's son of the whole blood is the successor, and not a nephew of the half blood who confers less benefits compared with the brother's son of the whole blood, since the mother and grandmother of the deceased owner do not participate in the oblations presented by the nephew of the half blood to the father and grandfather [of such deceased owner.*]

NOTE.



Here the mother, and grandmother of the deceased owner do not participate in the oblation, which the nephew of the half blood is bound to offer to his grandfather and great-grandfather, since his (the nephew's) descent in the female line is derived from a different family.

2. The participation of a mother, a grandmother, and great-grandmother, in the funeral oblations presented by the oblator to the father, grandfather, and great-grandfather respectively, is recounted in the following passage of scripture. "The mother participates in the funeral oblation made to the manes of her husband : So also do the grandmother, and great-grandmother" [participate in oblations made to the grandfather and great-grandfather.]

3. Among brother's sons associated and unassociated, all of the whole blood, the succession devolves exclusively on the associated brother's son.

4. In like manner, in the case of associated and unassociated brother's sons, all of the half blood, the succession devolves on the associated brother's son of the half blood.

5. But if the son of the whole brother were unassociated, and the son of the half brother associated, then they both inherit together.

6. Where however two nephews were either associated, or unassociated with the deceased, one of the whole, the other of the half blood, then in both instances the succession devolves on the nephew of the whole blood.

In default of brother, brother's sons succeed, taking *per capita* and not *per stirpes*; but brothers' sons are totally excluded by the existence of brothers. Brojorajkishoree, 9, W. R., 463 ; Brothers' sons are heirs in preference to brothers' son's son. Larmour, 3rd May, 1859 ; S. D. 567. Ramjoy Sett, East's Notes, Case, 53. Grandsons of a paternal uncle is excluded by a brother's son. Deepoo, 3, Sel. Rep., new ed., 410.

SECTION 9.

On the right of the Brother's Grandson.

1. If there be no brother's son, the brother's
 11. Brother's grand- grandson is heir, both, because he
 son. presents one funeral oblation, [name-
 ly, to the deceased owner's father, i. e., his own great-
 grandfather] in which the deceased owner participates,*
 and because he is within the degree of relationship,
 termed "*Sapinda*."

2. But brother's great-grandsons do not inherit,
 since they confer no benefits, because they stand in the
 fifth degree of relationship to the father of the deceased
 owner.

3. Here likewise the distinction of the whole
 blood, and of the half blood, as in the instance of
 brother's sons must be observed.

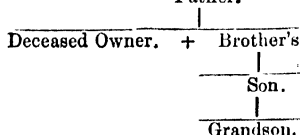
SECTION 10.

*On the right of the Father's Daughter's Son, and of other
 Heirs.*

1. On failure of the brother's grandson, the suc-
 12. Father's daugh- cession goes to the father's daugh-
 ter's son. ter's son, for he presents three fu-

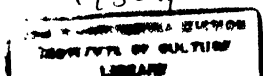
NOTE.

* Father.



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neral oblations, namely, to the father, paternal grandfather, and paternal great-grandfather of the deceased owner, i. e., to his own maternal grandfather, maternal great-grandfather, and maternal great-great-grandfather. (According to ACHARRYA CHUDAMANI, the son of the proprietor's own sister, and the son of his half sister, have an equal right of inheritance).^(s)

2. In default of the father's daughter's son, the

13. Brother's daughter's son succeeds,
for he presents two funeral cakes in

^(s) Coleb. Dá. Bh., Ch. XI. Sec. VI., para 8; 1, Macn. H. L., 28; Da T., 75.

Raj Chunder Narain Chowdoory, 1, Sel. Rep., 43, new ed. 56. Shurnboo Chunder Rai, 6, Ibid, 234; new ed 291.

The son of the proprietor's own sister, and son of his half-sister have an equal right of inheritance. Vyav. Durp. 2nd ed 225; 1, Macn. H. L., 28; 2, Macn. H. L., 86; Coleb. Da. Bh., Note 225; G. ed., 250.

Although sister's son is an heir according to Bengal School, yet the right of succession cannot remain in abeyance in the expectation of the future production of such heir not conceived at the time the succession opened. Luckhipria, 5, Sel Rep 315; new ed 367; Rishbehary Rai, S. H C. Rep., 1864. 223. Dukhina Dasee, 1, W. R., 221. Aulim Chund Dhur, 6, Sel. Rep, 234 new ed. 278.

A grandson, born after the death of his maternal uncle but during the life-time of his maternal grandmother, may inherit her property, which she inherited from the uncle (her son). Radhagobind Dass, 1, W. R., 123.

A sister's son born after the death of his maternal grandmother, who inherited her son's property, is no heir. Samasoondery Dasee, 1, W. R., 353.

According to Hindu law as current in Bengal, a sister cannot inherit as an heir to her brother. Ramdoyal Deb, 1, W. R., 227; Anund Chunder Mookerjee, 5, Ibid, 215.

SECT. 10.] ON THE RIGHT OF FATHER'S DAUGHTER'S SON. 23

which the deceased owner participates, namely, to his (the owner's) father and paternal grandfather.(t)

3. Failing him, the paternal grandfather is the successor, for as the father is entitled to succeed on a failure of the heirs of the deceased owner ending with the daughter's son, so by the rule of analogy the succession devolves on the grandfather in default of heirs down to the father's daughter's son ; and because he presents one oblation (namely, to the owner's paternal great-grandfather, i. e., his own father) in which the deceased owner participates.

Neither a sister nor a sister's daughter can inherit. Kallyprosad Surma, 2, W. R. , 180.

(t) A father's brother's daughter's son is entitled to inherit according to the Hindu law as current in Bengal. *Guru Gobind Shaha Mundal*, 5, B. L. R., 15; 13, W. R. F. B., 49. Under that law the great grandsons of the paternal great-grandfather can inherit in preference to the brother's daughter's son, because, although the former can offer but one oblation and the latter two, yet that offered by the former being for a paternal ancestor, is of a superior religious efficacy to those offered by the latter, which are for maternal ancestors only. *Gobind Prosad Talookdar*, 15, B. L. R., 35; 23, W. R., 117; Case No. 208 of 1875, Regular Appeal, *Juggutnarain Singh*, Appellant, decided by Garth, C. J., and Morris, J., on 31st May 1877. Case No. 2640 of 1875, Special Appeal, *Uma Churn Biswas* decided by Birch and Mitter, J.J. Brother's daughter's son can inherit in the absence of any nearer heir. *Doorga Bibee*, 18, W. R., 331. *Contra*, that a *Sapinda* will inherit after *Sakulya*, the right of inheritance of a brother's son's daughter's son being inferior to that of brother's son's son. *Kashee Mohun Roy*, 24, W. R., 229.

According to the Hindu law current in Bengal, a brother's daughter's son being a cognate Sapinda is a heir to the great great grandfather's great son

4. In default of the paternal grandfather, the pa-

15. Paternal grand- ternal grandmother is heir, accord-
mother. ing to the text of MENU.* “Of a
son dying childless, [and leaving no widow,] the [fa-
ther, and] mother shall take the estate, and the mother
being also dead, the paternal [grandfather, and] grand-
mother shall take the heritage, [on failure of brothers
and nephews.”] As the mother succeeds on the death
of the father, so by the rule of analogy the succession
devolves on the paternal grandmother in default of
the paternal grandfather.(u)

5. Failing the paternal grandmother, the uncle
succeeds, for he presents two obla-

16. Uncle. tions to the paternal grandfather,
and great-grandfather of the deceased owner, (i. e., his
own father and grandfather,) in which the said owner
participates.(v)

6. In his default, the succession devolves on the
uncle's son, for he [also like his

17. Uncle's son. father] presents two oblations in
which the deceased owner participates, namely, to the
owner's paternal grandfather, and paternal great-

NOTES.

* MENU, Chap. 9. v 217.

(u) Paternal grandmother excludes a sister and uncles. 2, Macn.
H. L., 64.

(v) Uncles succeeded on failure of nearer heirs. Gudadhur Surma, 1
Sel. Rep., 5 ; new ed. 7. The widow of a paternal uncle is no heir to her
nephew. Upender Mohun Tagore, 3, B. L. R., 359.

grandfather [*i. e.*, his own paternal grandfather, and great-grandfather.](*w*)

7. Failing him, the uncle's grandson succeeds,

18. Uncle's grandson. for he presents one oblation, namely, to the paternal grandfather of the deceased owner, [*i. e.*, his own paternal great-grandfather] in which the said owner participates.

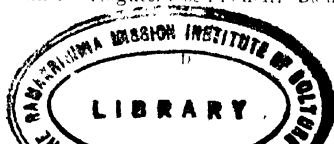
8. Failing the uncle's grandson, the succession devolves on the grandfather's

19. Grandfather's daughter's son. daughter's son, because he presents two oblations in which the deceased

owner participates, namely, to the owner's paternal grandfather, and paternal great-grandfather, [*i. e.*, his own maternal grandfather, and maternal great-grandfather.] Notwithstanding the grandfather's daughter's son,⁽¹⁹⁾ who presents two oblations in which the deceased owner participates, confers greater benefits than the uncle's grandson,⁽¹⁸⁾ who presents but one oblation in which the deceased owner participates, yet nevertheless the right of succession devolves in the first instance on the uncle's grandson by virtue of his relationship to the deceased owner in the degree termed *Sapinda*.(*x*)

(*w*) Uncle's son succeeds in preference to a childless endow'd daughter. Taramonee Goopta, Marshall, 29.

(*x*) A grandfather's daughter's son is heir. Bamaseondery Dabca, 2. See Rep. 742.



9. In default of the paternal grandfather's daughter's son, the uncle's daughter's son succeeds, because he presents two oblations, in which the deceased owner participates, namely, to the owner's paternal grandfather, and great-grandfather, [i. e., his own maternal great-grandfather, and great-great-grandfather.]

20. Uncle's daughter's son.

10. Then succeed in order the paternal great-grandfather, and the paternal great-grandmother, because of the deceased owner participating in the oblations offered to the paternal great-grandfather, and also by reason of the rule of analogy above-mentioned.

21. Paternal great-grandfather.

22. Paternal great-grandmother.

11. Next succeed in order the paternal grandfather's brother, his son, and grandson, for they present one oblation, in which the deceased owner participates, namely, to the owner's paternal great-grandfather.

23. Paternal grandfather's brother

24. His son, and

25. His grandson.

12. Afterwards the paternal great-grandfather's daughter's son takes the succession, since he presents an oblation, in which the deceased owner participates, namely, to the owner's paternal great-grandfather, [i. e., his own maternal grandfather.]

26. Paternal great-grandfather's daughter's son.

13. Next the succession devolves on the paternal

27. Paternal grandfather's brother's daughter's son, who presents an oblation, in which the deceased owner participates, namely, to the owner's paternal great-grandfather, [*i. e.*, his maternal great-grandfather.]

28. Maternal grandfather. 14. In his default, the maternal grandfather of the deceased owner succeeds.

15. Failing him, the maternal uncle, his son and grandson, for these texts of MENU, 29. Maternal uncle. 30. His son, and 31. His grandson. "To three [ancestors] must water be given at their obsequies; for three is the funeral cake ordained,*" and "To the nearest *Sapinda* the inheritance next belongs,†" which declare the right of succession to the wealth to take place according to the order of proximity of benefits conferred on the deceased owner, propound the right of the above-named to succeed; and the sole object of the introduction of the two texts above cited in a treatise on inheritance is to shew that the right of succession to the estate occurs according to the order of benefits conferred on the deceased proprietor: otherwise the insertion of these texts in a treatise on inheritance would have been useless.(y)

NOTES.

* MENU, 9. 186.

† MENU, 9. 187.

(y) Maternal uncle succeeds in preference to the paternal grandfather's brother's daughter's son, and to the great-great-great-grandfather's at-great-great-grandson. Rane Monimohinee, S. P. 1856, 697. (It

16. In default of the maternal uncle's grandson,
 32. Maternal grand- the maternal grandfather's daughter's son succeeds.⁽²⁾
 father's daughter's son.
33. Maternal great- 17. Failing him, the maternal
 grandfather. great-grandfather, his son, grand-
 34. Son. grandson, great-grandson.
 35. Grandson.
 36. Great grandson.
18. In their default, the mater-
 37. Maternal great- nal great-grandfather's daughter's
 grandfather's daughter's son.
 38. Maternal great- 19. Failing him, the maternal
 great-grandfather great-great-grandfather, his son,
 39. Son. grandson, great-grandson.
 40. Grandson.
 41. Great-grandson.
20. In default of these, the
 42. Maternal great- maternal great-great-grandfather's
 great-grand father's daughter's son succeeds.
21. On failure of the heirs who present oblations in
 which the deceased owner partici-
 pates, the "*Saculya*," (or remote
 kinsman) takes the inheritance ac-
 cording to the text of MENU, "Then, the distant kins-
 man shall be the heir, or the spiritual preceptor or the
 pupil, [or the fellow student of the deceased.]"*]

NOTE.

* MENU, 9. 187.

has been settled that *Sapindas* of the paternal kindred will inherit before the *Sapindas* of the maternal kindred. See Note on brother's daughter's son, *vide* p. 22, para. 2.)

(2) The son of a deceased maternal aunt takes before the lineal descendants from a common ancestor beyond the third in ascent; i. e., after the nearer *Sapindas* and their descendants. Deya Nath Roy, 6, Sel. Rep., 27; new ed., 30; Roop Churn Mohapatra, 2, *Ibid.* 35; new ed., 45.

22. The *Saculya*, or remote kindred, is of two descriptions, 1st descending, and 2d ascending.

Who are of two descriptions. descending and ascending.

23. The first includes the great-grandson's son, and the rest down to the 3rd degree in the descending line. The second intends the great-grandfather's father, and other ancestors up to the 3rd degree in the ascending line.

Descending, viz great-grandson's son. &c.

Ascending, viz great-grandfather's father, &c.

24. Here the distant kinsmen in the descending line, first obtain the inheritance according to their respective order, since the deceased owner partakes of the remainder of the oblations which they present.

43. Distant kinsmen in the descending line.

25. In their default, the distant kindred, as far as the third degree in the ascending line, inherit in due order : since the deceased proprietor participates in the remainder of funeral oblations made to his great-great-grandfather, and the other ancestors, three in all : and their offspring present oblations to those three who are partakers of the remainder of oblations which it belonged to the deceased owner to make. The text of *VRIHASPATI* declares, " That where there are many relatives, (*Gnatayah*) or remote kindred, (*Saculyáh*) or cognate kindred, (*Vandhuah*) whoever is nearest of kin, shall take the wealth of him who dies without male issue." Propinquity of kin must be considered with reference

44. Distant kinsmen in the ascending line.

to the greater or less benefits conferred on the deceased proprietor, as is confirmed by (both) the texts already cited above (§ 15.)

26. If there be no distant kindred of this description, the *Samánódacas*, or kinsmen allied by common libations of water inherit, since they must be considered as comprehended in the term "*Saculyah*."

45. *Samánódacas*, or kinsmen allied by libations of water.

27. On failure of these, the spiritual preceptor is the successor. (aa)

28. In default of him the pupil is heir, for the text of MENU. "or the spiritual preceptor, or the pupil," propounds the order in which these persons shall respectively succeed. The spiritual preceptor here intended is he who affords religious instruction [to his pupil] after investing him with the *Brahminical* thread, whence he is so denominated, (bb) 178517

17. Pupil.

(aa) An *Acharjya* or spiritual teacher, but not Gooroo, is said to be next in succession to the *Samanodoccas*, Case I 2, Manc. H. L., 100 ; The heirs of the founder have a right to use a place of worship not the heirs of the founder's *Purohit*, or spiritual preceptor ; 2, Manc. H. L., 103

(bb) The Pupil or follower of a religious mendicant is his heir, not his relation by blood ; 2, Manc. H. L., 101, 102 ; 2, Str. H. L., 257 ; Gunes Gir, 1. Sel. Rep., 278 ; new ed., 291 ; Succession to a Mohunt is regulated by the rules applicable to Sunyasses. The Law of these classes rests on custom only Gungapoorum, 9, N. W. R., 212 ; Mohunt Rama Nooj Das, 6, Sel. Rep., 262, new ed., 328 ; Ram Churn Das, Ibid, new ed., 242. Gree Dharee Doss Mohunt, 8, W. R. P. C., 25 ; The widow of a Mohunt does not inherit to him. Ibid. He may not marry He may have a female disciple ; but the Gosain's successor is his male pupil. Sungram Sing, N. W. P. R. for 1855, Case 70.

29. On failure of him, the fellow student of *Védas*,

48 Fellow student of as named in the text of YAJ-
the *Véda*. NAWALCYA, "a pupil and a fellow
student."

30. In his default, persons bearing the same

49. Persons bearing family name, being inhabitants of
the same family name. the same village, succeed.

31. On failure of them, persons inhabitants of
the same village, and descended

Failing them.
50 Those descended from the same patri-
arch. arch. from the same patriarch, are the
successors, according to the text of
GAUTAMA. "Persons allied by fu-
neral oblations, family name, and by patriarchal de-
scendant, shall take the heritage."

32. On failure of all heirs as here specified, *Bráh-*

51 *Bráhmaṇás*. *manás*, inhabitants of the same
village, endowed with learning in
the three *Védas*, and other qualities, are the successors.
Thus MENU says, "On failure of all those, the lawful
heirs are such *Bráhmaṇás* as have read the three *Védas*,
as are pure in body and mind as have subdued their
passions. Thus virtue is not lost."

Dhun Sing Gir, 1, Sel. Rep., 153; new ed., 202. Ram Rutton Dass, 1, Ibid, 170; new ed., 226. *Byragi* is not necessarily such a religious devotee that his goods are inherited by his pupil in the event of intestacy. Go-
bind Dass, Fulton, 217; Property bestowed by a zemindar on a *Mohunt*
in perpetuity, escheats to the donor, on failure of legal heirs; Sungiam
Sing; N. W. R. for 1855, Case 70.

33. In default of them, the wealth goes to the king, excepting, however, the property of *Bráhmāna*. Thus MENU :
 52. The king.
 “The wealth of a *Bráhmāna* shall never be taken as an esheat] by the king, this is a fixed law : but the wealth of the other classes, on failure of all heirs, the king may take.”

34. Failing the duly qualified *Brihmāna* in respect to the wealth of a *Bráhmāna*, residing in another village, is the successor, but not the king. This must be understood.
 Special rule to be observed with regard to the wealth of a *Bráhmāna*.
 And

35. The goods of an anchorite, an ascetic, and of a professed student, are taken by the spiritual brother, the virtuous pupil, and the holy preceptor.
 The goods of a hermit, ascetic, and professed student.

36. On failure of these, the associate in holiness, or person belonging to the same order, inherits. Thus YAJÑAWALKYA. “The heirs of an hermit, of an ascetic, and of a professed student are in their order the preceptor, the virtuous pupil, and the spiritual brother, and associate in holiness.” “*Order*,” that is the inverse order ; Therefore the preceptor takes the goods of the professed student : the virtuous pupil those of the ascetic, and the spiritual brother and associate in holiness, that

NOTE.

* MENU, Chap. 9 v. 189

SECT. 10.] ON THE RIGHT OF THE FELLOW STUDENT. 33

is he who is engaged in the same pilgrimage, or sojourns in the same hermitage, those of the anchorite.

37. The professed student is of two descriptions, perpetual and temporary. The preceptor inherits the goods possessed by a perpetual student, for he abandons his father and the rest, making a vow of residing for life in his preceptor's family. But the property of a temporary student would be inherited by his father, and other relations, since he does not enter on any such vow, and merely attends his preceptor for the purpose of instruction.



CHAPTER II.

ON THE ORDER OF SUCCESSION TO THE PECULIAR
PROPERTY OF A WOMAN.

SECTION 1.

Succession to the peculiar Property of a Maiden.

1. In regard to the property of a maiden, first
the uterine brother is the successor ;
2. Mother, in his default, the mother, and fail-
3. Father. ing her, the father. NAREDA says,

“The wealth of a deceased damsel let the uterine brethren themselves take ; on failure of them, it shall belong to the mother, or if she be dead, to the father.”(1)

2. This relates to wealth other than that which
has been given to the damsel by a

Excepting the gifts
bestowed by a bride-
groom which he is en-
titled to receive back.

bridegroom, for a bridegroom has
a right to wealth given by himself.

The text of PAITHINASI recites,

“The bridegroom shall take the gratuity given by himself, and NAREDA says, “Let the first bridegroom on his return take back the presents he gave to the damsel, who has since been married ; and in case of her death likewise, let him receive back what he gave, after defraying the expences which they have mutually incurred.”

(1) Coleb Da. Bh., p. 100.—Vyv. Dūp, 707.

SECTION 2.

Definition of the peculiar Property of a Married Woman.

1. The peculiar property of a woman is in the first place defined, for the purpose of afterwards describing the order of succession to such property when belonging to a *married woman*. On this subject NARADA says, "What was given before the nuptial fire, what was presented in the bridal procession, her husband's donation, and what has been given by her brother, or by either of her parents, is termed the six-fold property of a woman." (2)

2. Here the number six must not be considered as restrictively used ; since it will be hereafter declared that woman's peculiar property is of many descriptions. CATYAYANA describes a gift before the nuptial fire. "What is given to women at the time of their marriage, near the nuptial fire, is celebrated by the wise as the woman's peculiar property bestowed before the nuptial fire." (3)

3. "*The time of their marriage*," that is the time occupied by the ceremony, commencing with the performance of funeral obsequies for departed ancestors,

(2) Coleb. Da. Bh., Ch. IV., Sect. I., paras. 4-5.—Vyv. Durp., 681.

(3) Personal property given to a woman at the time of her marriage becomes her's exclusively. 2, Macn. H. L., 122. Frankishen Sing, 1, Sel. Rept., 4.

and concluding with the (*Abhivad*, or) prostration of the husband at the feet of his wife.(4)

4. Property received by the woman during this time is denominated "*Yautuca*," or property given at a marriage, conformably to the meaning of the root, "*Yu*," which signifies to mix, and the mixture here alluded to, is that which results from the union by marriage of the man and woman, who become as it were one and the same body. The following passage of scripture declares. "Her bones become identified with his bones, flesh with flesh, skin with skin."

5. *VYASA* also says, "Whatever is presented at the time of the nuptials to the bridegroom, intending [the benefit of the bride,] belongs entirely to the bride ; and shall not be shared by the kinsmen."

6. "*Intending*;" That which is given to the bridegroom, delivered into his hand, accompanied by an expression of the intention, such as "*Let this belong to the bride*," and not any thing given without this intention ; Such is the meaning.

7. Therefore the expression of "*Before the nuptial fire*," occurring in the text before cited, and that

(4) *Vyv. Durp.*, 682.

Such property is her *Soulayaca Stridhanum*. *Gosain Chund Kobraj*, 6, *Sel. Rep.*, 77, new ed., 90. A gift of money by a son to his mother for maintenance is her *Stridhanum*. *Mt. Doorga Koonwar*, 5, *W. R.*, 53, *Mis.* Property given by a husband to a wife, in which she would otherwise only have had a life estate, becomes her *peculium*. *Baboo Sheo Manag Sing*, 5, *Sel. Rep.*, 148 ; new ed., 173.

of "*The time of their marriage*," in the text since quoted, are both illustrative. Since whatever is delivered into the hand of the bridegroom, intending the benefit of the bride, becomes her's, such intention must therefore be considered as the foundation of her property therein. The mention therefore of the "*bridegroom*" must be taken figuratively, for wealth delivered into the hand of any other with that intention, would equally become the exclusive property of the bride.

8. CATYAYANA describes a gift presented in the bridal procession. "That again which a woman receives while she is conducted from the parental [abode, to her husband's dwelling] is instanced as the separate property of a woman under the name of gift presented in the bridal procession."(5)

9. The term "*parental*," being derived from a compound expression, of which only one part is retained, the presents which she receives from the family of either her father, or mother, while proceeding to the house of her husband, are gifts presented in the bridal procession.

10. "*Her husband's donation*," is wealth given to her by her husband, as indeed appears from the use of the expression in another text of CATYAYANA. "Let the woman place *her husband's donation* as she pleases, when he is deceased; but while he lives, she should carefully preserve it, or else commit it to the family."

(5) Coleb. Da. Bh., Ch. IV., paras. 5, 6, 7, 8, 13, 15.—Vyv Dimp, 381, 682, 684.

11. It must not be argued that the word *dāya* (donation) here used, relates to the wealth of her husband ; for the latter part of the text above cited, "*but while he lives, she should carefully preserve it,*" would then be irrelevant, and it is moreover impossible that during the life-time of the husband his wealth should go to his wife.

12. Nor does the term "*husband's donation*" apply to the heritage devolving to the wife on the decease of her husband ; for the mention of it occurs in a chapter treating of the peculiar property of a woman, and heritable wealth does not form her peculiar property ;—Supposing such to be the case, the sense of the verb "*dā,*" to give, would then become metaphorical.

13. "*Commit it,*" deposit it ; "*The family.*"—Her husband's family, his younger brother and the rest.

14. "*Or else,*" that is, if unable to preserve it herself. Thus YAJNAWALKYA. "What has been given to woman [before or after her nuptials] by the father, the mother, the husband, or a brother, or received by her at the nuptial fire, or presented to her on her husband's marriage to another wife, as also any other separate acquisition, is denominated woman's property."(6)

(6) Personal property given by a man to his wife, on contracting a second marriage, is her's absolutely. 2, Macn. H. L., 215 ; *aliter* as to reality Ibid.

15. Wealth given by a man for the sake of gratifying his first wife when desirous of espousing a second, is called a gift on a second marriage, since the intention of it is to obtain another wife.

16. So DEVALA says, "Her subsistence, her ornaments, her perquisite, and her gains, are the separate property of a woman. She herself exclusively enjoys it; and her husband has no right to use unless in distress." "*Subsistence*," food, and raiment.(7)

17. CATYAYANA describes the fee or perquisite. "Whatever has been received as a price of workmen on houses, furniture, beasts of burden, milk, animals, and ornaments, is denominated a fee." That is termed a fee, which a woman receives from others as a *douceur* for influencing her husband, an architect or other description of artist, to expedite the completion of their business, such as the construction of a house, or other kind of work. It is the price in fact which she receives for sending her husband [to the employment.]

18. "*Furniture*," brooms, &c. "*Beasts of burden*," bulls, &c. "*Milk animals*," milch cows, &c. "*Gains*," a treasure discovered, &c.

19. Thus VISHNU says, "What has been given to a woman by her father, her mother, her son, or her brother, what has been received by her before the

(7) Ornaments freely given by a man to his wife are her own property, and descend to her heirs. Gun Joshee Malkhoonder. 2, Bom. S. D., 401; 1, Mor. Dig., 595. A gift to a mother, by her son, for maintenance, is her *brīdhanan*, and cannot be recovered by the husband's heir, after the mother's death. Mt. Dooga Koonwar. 1, Wym., 358.

nuptial fire, what has been presented to her, on her husband's espousal of another wife, what has been given to her by kindred, as well as her perquisite, and a gift subsequent, are a woman's separate property.' By "*kindred*," maternal uncles are indicated.

20. DEVALA describes "a gift subsequent," "What has been received by a woman from the family of her husband at a time posterior to her marriage, is called a gift subsequent, and so is that which is similarly received from the family of her kindred. Whatever is received by a woman after her nuptials from her husband, or from her parents, through the affection of the giver, *Bhrigu* pronounces to be a gift subsequent."

21. "*From the family of her kindred.*" Here by the word "*kindred*," her father and mother are [also] intended.

22. Therefore any thing received after the marriage from persons related through her husband, such as her father-in-law and others, or from persons related through the father and mother, namely, maternal and paternal grandfathers, is termed a gift subsequent. Such is the meaning of the first text, and the meaning of the second text is that any thing received posterior to the marriage, either from her husband, or from her parents, is also termed a "*gift subsequent*."

23. Since various sages have recounted woman's peculiar property as comprizing sundry descriptions, the number six specified in the text of "*NAREDA*,"

SECT. 2.] PECULIAR PROPERTY OF A MARRIED WOMAN. 41

(§ 1) is not to be respected, and the different texts must therefore be considered as generally descriptive of woman's peculiar property.

24. A woman's property may then be briefly defined to be that wealth which independent of her husband's control she has a right to dispose of at pleasure, recognized as this right is by law which CATYAYANA has declared.

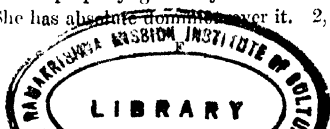
25. "The wealth which is earned by mechanical arts, or which is received through affection from any other [but the kindred] is always subject to the husband's dominion. The rest is pronounced to be the woman's property."(8)

26. "That which is received by a married woman, or a maiden, in the house of her husband or of her father, from her parents, is termed the "*gift of affectionate kindred*." The independence of women who have received such gifts is recognized in regard to that property, for it was given by their kindred to soothe them, and for their maintenance. The power of woman over the gifts of their affectionate kindred is ever celebrated, both in respect of donation and of sale according to their pleasure, even in the case of immoveables."(9)

• (8) Coleb. Da. Bh., Ch. IV., Sect. IV. paras. 19—23.

Property left as a legacy to a woman by her husband's or her own action, is *Stridhanum*, and her husband has no right to it, but if it be given to her by a stranger, she cannot part with it, without her husband's consent. Ram Doolal Sircar. Easte's Notes, Case XLV. 2, Mor. Dig., 56.

(9) Immoveable property given by a man to his grandson's wife is *peculium*. She has absolute dominion over it. 2, Macn. II. L., 213.



27. He explains the meaning of the word "*rest*," (§ 25) by the text which follows (§ 26.) "That which is received by a married woman," &c.

28. "*From any other.*" The husband has authority over that which the woman has obtained from any other excepting the family of her father, mother, or husband, or in that which she has gained by the exercise of an art, such as painting, or spinning. He is entitled to take it even without the occurrence of any distress.

29. Therefore notwithstanding the woman has ownership in both descriptions of property, she has no independent power in regard to it; On the contrary, appearing from the text that her husband has authority over such property, his permission authorizing the disposal of it must be awaited by the woman.

30. "*Pronounced to be the woman's property*," that is declared alienable by the woman at her own pleasure "*By a married woman*," &c. That which is received by a married woman from the family of her husband, or from the family of her parents, and by a damsel from the family of her parents, is the "*gift of affectionate kindred*;" Such is the meaning. "*To soothe them*," that is through a motive of tenderness.

31. "*Even in the case of immoveables*," relates to immoveable property other than that which has been bestowed upon her by her husband, for a prohibition exists against the gift or sale by a woman in regard to immoveable property given to her by her husband; So

SECT. 2.] PECULIAR PROPERTY OF A MARRIED WOMAN. 43

NAREDA, "What has been given by an affectionate husband to his wife, she may consume as she pleases when he is dead, or may give it away, excepting immoveable property." (10)

32. Since "*given by her husband*," is here particularly specified the general text of CATYAYANA above quoted, must be considered applicable to immoveable property, other than bestowed by a husband, in conformity with the principle which admits of a special provision limiting the operation of a general rule.

33. But the husband is at liberty during a period of famine and the like when unable to subsist without the use of the woman's separate property, to take such property even though it be the gift of affectionate kindred. Thus YAJNAWALKYA "A husband is not liable to make good the property of his wife taken by him in a famine, or for the performance of a duty, or during illness, or while under restraint." (11)

34. "*While under restraint*," which a creditor or other person imposes on himself for the purpose of re-

(10) Coleb. Da. Bh., Chap. IV. Sect. I. paras. 21, 23

That which is given by a husband to his wife, is termed her *Stridhanum*, or peculiar property. ~~But she cannot dispose of immoveable property though given to her. On her death it passes to her heirs.~~ 2, Maen. H. L., 25; Baboo Gunput Sing, 2, N. W. P. R., 230; Tincowry Chatterjee, 3, W. R., 49.

(11) A husband in time of famine may dispose of his wife's ornaments given in dowry, even without her consent. G. Yettaradzamah, Mad. S. R. for 1853, p. 254.

covering his right, being debarred at the same time from ablution, from food, &c. CATYAYANA has declared the husband to have no right to the use of the woman's separate property [as before described] during the non-existence of any such calamity as a famine or the like.

35. "Neither the husband, nor the son, nor the father, nor the brothers, can assume the power over a woman's property to take it or to bestow it. If any one of these persons by force consume the woman's property, he shall be compelled to make it good with interest, and shall also incur a fine. If such person having obtained her consent, use the property amicably, he shall be required to pay merely the principal when he becomes rich. But if the husband have a second wife, and do not shew honor to his first wife, he shall be compelled by force to restore her property, though amicably lent to him. If food, raiment and dwelling be withheld from the woman, she may exact her due supply, and take a share [of the estate] with the coheirs."

36. "*Make it good with interest,*" that is the woman's separate property taken by force in the form of a loan must be rendered with interest; The word "with interest," [*Savriddhim*] must not be supposed a discriminative of (*Stridhunu*) "*the woman's separate property,*" for supposing this to be the case, *Savriddhi* would be the proper form in which the word would appear.

37. "*Merely the principal*;" Here the insertion of the word "merely," is intended to preclude [the payment of] interest.

38. "*But if*," &c. the meaning of which is, that if the husband after making use of the separate property of one wife, reside with another wife, and neglect the former, he shall be compelled by the ruling power to restore such property, even though it had been amicably lent.

39. "*Food and raiment*;" Should the husband not allow his wife the necessaries of life, food and clothing, then she may, if immaculate, require the supply of food and raiment, which is her due.

40. "*Dwelling*," place of residence.

41. "*A share*," that is, on the death of her husband, she is to receive from his coheirs, his younger brother, and the rest, the share to which he was entitled. Let this suffice. Further detail being superfluous, the subject in question is therefore propounded.

SECTION 3.

On the Succession to the Separate Property of a Woman when received by her at her Nuptials.

.1. The separate property of a woman having been thus defined, the right of succession to such property on the decease of the woman is next described.

2. In respect to property received at her marriage

"*Yautuca*," her maiden daughter
Maiden daughter. succeeds first; A text of MENU de-

clares. "The wealth obtained by the mother at her marriage, let her maiden daughter exclusively take."

3. In default of such daughter, it appertains to the

- | | | |
|----|---------------------|--|
| I | Betrothed daughter. | Gamsel affianced, and failing her, the |
| II | Married daughters. | married daughters who have, and
those who are likely to have male
issue, inherit together. |

4. A text of GAUTAMA expresses, that a woman's property goes to her "daughters unaffianced and to those not actually married." (1)

5. Here as by the word "*daughters*," the right of succession by all the daughters is generally declared, the mention of "unaffianced," &c. becomes significant, as denoting the order in which they shall respectively inherit, and therefore first the maiden succeeds; then the affianced daughter, that is, one whose troth is plighted; in her default, the married daughter described as above, and failing her, the succession devolves equally on the barren and the widowed daughters. This is the meaning of the text.

6. Here however on the death of a maiden daughter, or of one affianced, in whom the succession had vested, and who having been subsequently married, is ascertained to have been barren, or on the death of a widow who has not given birth to a son, the succession

(1) A betrothed daughter is not entitled, at her mother's death, to share in her *Stridhana*; but the unbetrothed daughter alone inherit with the sons. Srinath Gungapadhyaya, 2, B. L. R., 144, A. C.

to the property which had passed from the mother to her daughters, would devolve next on the sisters, having, and likely to have male issue, and in their default, on the barren and widowed daughters ;—not on the husband of such daughter above-mentioned in whom the succession had vested : for the right of the husband is relative to the “ *Woman's separate property*,” and wealth which has in this way passed from one to another, can no longer be considered as the “ *Woman's separate property* ;”—This must be understood.(2)

7. The right of the barren, and widowed daughters to succeed, notwithstanding they confer no direct benefits through the medium of sons, is gathered from the text of GAUTAMA above quoted, which declares the right of succession by the daughters generally, whether married, or unmarried.

8. In default of all daughters, the son has a right to succeed : for the text of YAJNA-
 The son. WALCYA declares the right of the son to succeed on failure of daughters by the terms “ male issue,” expressed in this text, “ Daughters share the residuo of their mother's property after payment

(2) Mr. Macnaghten in his *Principles of Hindu Law* (vol. I. p. 38, 39, 40, 41, 42, 43, 44) says expressly, that *Stridhanum* which has once devolved according to the Law of Succession which governs the descent of this peculiar species of property, ceases to be ranked as such, and is ever afterward governed by the ordinary rules of inheritance. Coleb. Da. Bh., Chap. XI. Sect. II. para. 30. Srinath Gungopadhya, 2, B. L. R., 144. A. C. ; Prankishen Sing, 1, Sel. Rep. 3, new. ed., 4. ~~It was laid down that no property inherited by a woman is Stridhanum.~~ Sangamalathammal. 3, Mad. II. C. R., 312 ; P. Bachiraju, 2, Ibid. 402

of her debts ;--the male issue succeeds in their default," and because the son compared with all the rest, confers the greatest benefits ; The text of BAUDHAYANA also declares, that " Male issue of the body being left, the property, must go to them."

9. In default of the son, the daughter's son inherits, for it is reasonable, that since the daughter's son, the daughter's claim is preferred to that of the son, the son of the debarred son should be excluded by the son of the person who bars his claim.

10. Failing the daughter's son, the son's son succeeds, and in his default, the great-grandson in the male line, according to the degree in which benefits are conferred by them.

11. In default of the great-grandson in the male line, the son of a rival wife succeeds, for the text of VRIHASPATI recites that, "The mother's sister, the maternal uncle's wife, the paternal uncle's wife, the father's sister, the mother-in-law, and the wife of an elder brother are declared similar to mothers." " If they leave no issue of their bodies, nor son, [of a rival wife] nor daughter's son, nor son of those persons, the sister's son and the rest, shall take their property." (3)

(3) According to the author of *Dāya Bhāga* (Jinut Vahana), the right of the daughter's son follows that of the contemporary wife's son. Coleb. Da. Bh., Ch IV. Sect. III., para. 33. See also Summary on *Stridhana*.

12. The term "*son*," which occurs as above, "*nor son*," is intended to propound the right of succession by the son of a rival wife ; otherwise, it is useless to consider it as a discriminative of "*Uorusa*," meaning of itself "legitimate issue ;" and it would also follow that the younger brother of the woman's husband and the rest would have a right to succeed notwithstanding the existence of the son of a rival wife.

13. In default of the son of the rival wife, her grandson succeeds ; and failing him,
 Her grandson.
 Her great-grandson. her great-grandson, since they both present oblations to her husband in which she also participates.

14. In default of all the above heirs, if the property were obtained by the woman at the time of nuptials, celebrated according to one of the forms denominated *Brahma*, *Daiva*, *Arsha*, *Gand'harva*, or *Prajapatya*, her husband is the next successor, for the text of MĒNU declares, "It is ordained that the property of a woman married by the ceremonies called *Brahma*, *Daiva*, *Arsha*, *Gand'harva*, or *Prajapatya*, shall go to her husband, if she die without issue."*(b)

NOTE.

* MĒNU, Chap. 9, v. 196.

(b) A woman's property devolves, according to the form of her mar-

15. On failure of her husband, her brother is the next successor according to the text of YAJNAWALKYA, "That which has been given to her by her kindred, as well as her fee or gratuity, and any thing bestowed after marriage, her kinsmen take, if she die without issue."

The brother.

16. The term "*kindred*," means her mother and father, and consequently by the term "*kinsmen*," her brothers are signified. The same is declared by CATYAYANA, who says, "Immoveable property, which has been given by parents to their daughter, goes always to her brother, if she die without issue."—Here since the terms "*immoveable property*," are used, other property is of course intended by the argument drawn from the loaf and staff.* Thus it is stated in the *Dāya Bhūga*. By the use of the term "*always*," it appears, that the eight forms of marriage, namely, *Brahma and the rest* are included.

17. "*Fee or gratuity*" has been before explained, as also the "*gift subsequent*." Failing the brother, the

riages, on her husband or her parents. Her children's rights are never affected thereby. This question arises only on failure of progeny. Coleb. Da. Bh., Ch. IV., Sect. 1. Note 3. Mt. Thakoor-Deyhee, 11, M. I. A., 139.

NOTE.

* This example of analogy to which frequent allusion is made in argumentative writings, is variously stated. According to one explanation, the reasoning exemplified by it, is analogy drawn from association. According to another, it is argument *à fortiori*.—COLEBROOKE.

17 Afterwards the mother, and in her default the father.

succession devolves on the mother, and in her default, the father inherits. A text of CATYAYANA says :

“The fee of a damsel goes to her uterine brothers ; failing them, the mother succeeds ; and after her, the father.—Some hold that the father succeeds first.”

18. The “*fee of a damsel*,” that is, her wealth, belongs first to her uterine brothers ; in their default, it goes to the mother ; and after her to her father.—“*Some hold*,” &c. meaning in the opinion of others ; but according to our interpretation, the father first inherits, and afterwards the mother. Such is the meaning.

19. But if the wealth were received by the woman at the time of her marriage, celebrated according to any one of the three forms, denominated *Peisacha*, *Rakhusu*, or *Asura*, then in default of the great-grandson of the

But if the wealth were received at nuptials, celebrated in the form *Peisacha*, &c. then the mother succeeds, next the father.

rival wife, the succession devolves first on the mother, then on the father. For the text of MENU declares : “But her wealth given on the marriage called *Asura*, or on either of the two others, is ordained on her death without issue, to become the property of her mother and father.”*

After him,

20. Here the use of the compound in this form [“*Matapitroh*”] is with the view of exhibiting the or-

NOTE.

* MENU, Chap 9. v 197.

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der of succession, for if it had been intended that the mother and father should inherit together, the form "*Pitroh*" would have been observed.

21. In default of the father, the brother succeeds, and failing the brother, the succession devolves on the husband[†] according to the text of CATYAYANA, "That which has been given to her by her kindred, on failure of kinsmen, goes to her husband."

The brother,
and
in his default the husband.

22. "*Kindred*," mother and father :—" *On failure of kinsmen*," by which the failure of the brother must be understood ; because [in the instance of wealth received by the woman at the time of nuptials, *celebrated in one of the five forms called Brahma, &c.*] the parents succeed only in the case of a failure of the brothers.

SECTION 4.

On the Order of Succession to the Separate Property of a Woman, when not received by her at her Nuptials.

1. The order of succession requisite to be observed in regard to woman's peculiar property, generally, whether "*Yautuca*" or "*Ayautuca*" on a failure of heirs including all as yet enumerated, will be hereafter declared. But first we treat of the order of succession in regard to wealth not received by the woman at the time of nuptials termed "*Ayautuca*."

2. In the case of the peculiar property of a woman
The son and unmarried daughter inherit together. [not obtained by her at the time of nuptials, and] not given to her by her father at the time of the wedding, or at any other time, the son and the unmarried daughter inherit together.(a)

3. This is declared by the first half of the following passage of DEVALA, "A woman's property is common to her sons and unmarried daughters when she is dead ; but if she leave no male issue, her husband shall take it, her mother, her brother or her father."

4. Since the words "*sons and unmarried daughters*"
And in default of one, the other. are exhibited in the conjunctive compound (*called "Dvundvu"*), and because the words "*common to*" are here expressed, it results that the son and the unmarried daughter possess the right of inheritance together, and in default of either of them, the wealth goes to the other.

5. On failure of both these two, the succession
Failing them, devolves equally on the married daughter, who has, and the married daughter, who is likely to have male issue—for a text of NAREDA recites, "*In default of a son, let a daughter take the succession, for they are both offspring alike :*"—and because oblations at solemn obsequies are presented by the daughter through the medium of her son, to the hus-

(a) Coleb. Da. Bh., Ch. IV., Summary, new ed., p. 114 ; 1, Maen, H. L., 40, Elb. In., p. 85.

band of the woman, in which she participates, [that is, oblations are presented by the daughter's son to his own maternal grandfather.]

6. In default of either of these two, the other succeeds, and on failure of both of them other ; then, the son's son inherits, for he presents an oblation at solemn obsequies to the husband of the woman, of which she partakes.

7. In default of the son's son, the daughter's son succeeds ; for it is reasonable since the daughter's son : the claim of the married daughter is barred by the son, that the son of the debarred daughter, should be debarred by the son of the person who obstructs her claim : and a text of MENU reciting that, " A daughter's son delivers him in the next world like the son of a son,"* declares the right of the daughter's son to succeed.

8. "*Like the son of a son.*" From this expression it results, that when there is no longer an adverse claim, the daughter's son has a right to succeed after the son's son.

NOTE.

* MENU, Chap. 9. 139

9. In his default the great-grandson in the male line

The great-grand son
in the male line.

The son of a rival
wife, her grandson, and
great-grandsons,
afterwards,

succeeds. Failing him the son of a
contemporary wife, her grandson and
great-grandson in the male line : since
all these present funeral oblations to

the husband of the woman, in which she participates.

10. After these, the barren and widowed daughters

The barren and wi-
dowed daughters.

both inherit together, for they too
rank among the progeny of the wo-
man, and the right of the husband

Failing either, to succeed is only in the case of a failure of progeny ge-
nerally : MENU declares, that, the wealth of a childless
woman, married according to the form denominated *Brah-*
ma or the remaining four forms, goes to her husband.

11. Failing either of these, the other succeeds, and

The other succeeds.

Then the woman's
husband, brother, mo-
ther and father.

Or her mother, father,
brother and husband.

in default of successors including
the barren and widowed daughters,
the succession devolves in due or-
der, by the rule of analogy, as in
the case of wealth received at nup-
tials, viz., on the woman's husband,

brother, mother, and father, if she were married accord-
ing to any one of the five forms, denominated
“*Brahma*,” and the rest ; or if she were married ac-
cording to any of the three forms, styled *Asura*, &c. on
her mother, father, brother and husband.(a)

(a) This order of succession is not correct according to the opinion of
Jimuta Vahana (author of *Dayabhaga*.) In *Dayabhaga*, Chap. IV., Sec.

12. The order to be observed on a failure of these successors, will be hereafter declared.

SECTION 5.

On the Succession to the Separate Property of a Woman when given to her by her Father.

1. In regard to the wealth given by a father to
The maiden daughter. woman at the time of the wedding
or antecedent or subsequent to it
a maiden daughter inherits in the first place.

2. After her, a married daughter who has, and on
Next the married daughters. who is likely to have male issue
inherit together.

III., verse 10, he holds that wealth received by a woman after her marriage, from the family of her father, of her mother, or of her husband, goes to her brothers (not to her husband's) and cites as authority the text of Yajnyawalkya "That which has been given to her by her kindred, as well as her fee or gratuity", and any thing bestowed after marriage, her kinsmen take, if she die without issue. Srikrishna in this work cites the above text of Yajnyawalkya, and holds that husband succeeds first and then brother. See V. 15, Sec. III. Chap. II. Cal. High Court, in the case of *Jadunath Sircar v. Basant Coomiar Roy Chowdhery* 11, B. L. R., page 286. Norman, C. J., held that husband is preferential heir to the mother in respect of property bequeathed to a daughter by her father before her marriage. But Jackson and Mitter, JJ held that according to Hindoo law current in Bengal the mother succeeds to the property of her daughter bequeathed to her by her father before her marriage in preference to her husband. In a recent case of *Hurry Mohun Shaha v. Sonaton Shaha* reported in 1, I. L. R., Cal., p. 372 it has been held that with respect to property given to a woman after her marriage by her husband's father's sister's son, the brother, mother and father are preferable heirs to the husband's.

3. Next, the succession devolves on the barren and

And in their default,
the barren widowed
daughters, then the son
and the rest, as in the
case of property received
at nuptials.

widowed daughters, and in default
of all daughters, the son and the
rest succeed, as in the case of property
received at nuptials; for a

text of MENU declares, "The wealth of a woman which
has been in any manner given to her by her father, let
the *Brahmani* damsel take, or let it belong to her offspring."^{*}

4. Here by the specification of "*given by the father*,"
it is intended, that whatever has been given by the
father even at any other time than that of the wedding,
belongs first to the damsel, and after her, it goes to
her offspring,—her son.(a)

5. The expression *Brahmani* damsel, is merely an
illustrative recitation ("*Anoovadu*."*) Thus it is stated
in the *Dáya Bhága*.

SECTION 6.

*On the Succession to the Separate Property of a Woman,
generally, on a failure of all the Heirs as yet enumerated.*

1. In default of successors down to the father, in

On a failure of heirs
as yet enumerated, respect to wealth received at nup-
tials solemnized according to any
one of the five forms of marriage, denominated *Brahma*

NOTE.

* MENU 9, 198.

(a) Landed property which a daughter obtains as a gift is hers absolutely. 2, Macn. II. L., 214. *Aliter* as to what she takes by inheritance. *Ibid.*

and the rest, and on failure of successors down to the husband, in respect to wealth received at nuptials, celebrated according to any one of the three forms styled *Asura*, &c. as well as in the case of all other peculiar property of a woman, the succession devolves on the

The husband's younger brother succeeds. husband's younger brother : for the right of the husband's younger brother

and the rest to succeed at that time, has been propounded by VRIHASPATI in the following text : "The mother's sister, the maternal uncle's wife, the paternal uncle's wife, the father's sister, the mother-in-law, and the elder brother's wife are pronounced similar to mothers :—If they leave no issue of their bodies, nor son, [of a rival wife,] nor daughter's son, nor son of those persons, the sister's son and the rest shall take the property."

2. The word (" *Uorus*") "issue," in this text implies both son and daughter. "Nor son" must be considered as intending the "*son of a rival wife*." It must not be supposed discriminative of the word "issue," since it would be unmeaning, and it would follow that the succession devolved on the husband's younger brother and the rest, even while the son of a rival wife were existent. "*Nor son of those persons* : " Here by "*those persons*," the son, and the son of the contemporary (or rival) wife are intended :—the expression does not refer to the damsel and daughter's son, for the damsel's son is included in the term daughter's son, and the daughter's son's son confers no benefits, being incompetent to

present the funeral offering : [to the woman's husband.] By the term ["*va*,"] "*nor*," the sons of the son, and of the son of the rival wife are to be understood. But the *order* of succession prescribed by the above text is not to be respected ; for if this were the case, it would follow, that the husband's younger brother succeeded last, and this would be improper, since he confers greater benefits than all the others who are specified in that text ; and the following texts of MENU, "To three ancestors must water be given at their obsequies ; for three, (the father, his father, and the paternal grandfather) is the funeral cake ordained :"* "To the nearest *Sapinda* the inheritance next belongs,"† are recited in a treatise of inheritance, for the purpose of exhibiting that the order of succession takes place according to the greater or less benefits conferred ; otherwise, the introduction of them in such a treatise would be useless ; consequently the order of succession must be understood as taking place according to the proximity of benefits conferred, and this being the case, the order inferrible from the spirit of the text, rather than that derived from the letter of it, must be respected.

3. Therefore the husband's younger brother is first entitled to the succession, because he presents oblations to the woman, to her husband, and to three persons

NOTE.

* MENU 9, 186.

† MENU 9, 187.

to whom her husband was bound to offer oblations, and he is moreover a "*Sapinda*."

4. In his default, the succession devolves at once upon the sons of the husband's younger and elder brother, because they present oblations to the woman, to her husband, and to two persons to whom her husband was bound to offer oblations, (namely to his father and grandfather,) and they are moreover within the degree of relationship, termed "*Sapinda*."

5. In their default, the sister's son, though not a *Sapinda*, is entitled to the succession : for he presents oblations to the woman and to three persons, namely, her father and the rest to whom her son was bound to offer oblations.

6. Failing him, the husband's sister's son : for he presents oblations to her, to her husband, and to three persons to whom her husband ought to have offered oblations.

7. In his default, the [woman's] brother's son, who presents oblations to the woman, and to her father and grandfather.

8. Failing him, the son-in-law, who presents oblations to his father-in-law and mother-in-law.

9. VRIHASPATI's text above quoted, propounds therefore merely the right of succession by the persons

above-mentioned, and is by no means intended to exhibit the *order* in which they succeed.

10. Failing all these heirs including the son-in-law, the father-in-law, and the husband's elder brother, who are *Sapindas*, succeed according to their nearness of kin.

Afterwards the father-in-law, then the husband's elder brother,

11. In default of all *Sapindas*, the "*Saculyas*," those allied by common oblations of water, and those descended from the same patriarch in the male line, succeed.

After these, the "*Saculyas*."

12. Failing all these, in the case of the property of a *Brahmani* woman, *Brahmanas*, inhabitants of the same village, exceedingly learned in the *Vedas*, are entitled to the succession.

And in their default, *Brahmanas*

13. But in the case of the property of a woman of the king, the *Chsetriya* and other tribes, the king is exclusively entitled to the inheritance.



CHAPTER III.

ON EXCLUSION FROM INHERITANCE.

1. Those who are excluded from inheritance are now specified, from which exception, those who are competent to inherit, will appear : Thus MENU, "Impotent persons and out-casts, persons born blind, and deaf; madmen, idiots, the dumb, and those who have lost a sense or a limb,"* are excluded from a share of the heritage.—A text of CATYAYANA has more particularly defined the impotent person.(a)

2. "*Born blind and deaf.*" That is by nature, not those who have become so, from some adventitious cause : the meaning therefore is, those who are blind

NOTE.

* MENU 9, 201.

(a) Coleb. Da. Bh., Chap. V., 1—20; Mit. Chap. II. Sect. X., 1—3; Smṛiti Chundrika, Chap. V., 1; Vyv. Mayk., Chap. IV. Sect. XI., 1 and 3; Vyv. Durp., 997; 1, W. and Buhl., 286.

Blindness :—In Baku-bai, 2, Bom. H. C. R., 5. It was held that a daughter, becoming incurably blind in infancy, cannot inherit.

Dumbness :—If from birth, is a cause of disinheritance in females as well as males. Vallabram Shivnarayun, 4, Bom. H. C. R., 135, A. C. J.

Insanity :—A man born mad cannot inherit. Tirumamagal Ammal, 1, Mad. H. C. R., 214; Bodhnarain Sing, 13, M. I. A., 519; Koer Golab Sing, 14, Ibid, 176.

Leprosy :—A leper is incompetent to inherit. 2, Macn. H. L., 129; It is only when leprosy assumes a virulent and aggravated type that it is by Hindu law made a ground for disqualification for inheritance.

and deaf from the period of their birth. NAREDA says —“ An enemy to his father, an out-cast and one who is addicted to vice [or has been expelled from society,] take no shares of the inheritance, even though they be legitimate : much less if they be sons by an appointed kinsman.”

3. “ *An enemy to his father :*” One, who ill-treats his father during his life-time, or one, who is averse to performing his obsequies when dead.

4. “ *One who is addicted to vice :*” One, who by reason of his crimes and vices, is excluded by his relations from drinking water in company with them.

5. Thus YAJÑAWALKYA : “ All those brothers who are addicted to vice, lose their title to the inheritance.”

6. “ *Addicted to vice :*” That is, adhering to a contrary or an improper course, such as drinking, gaming, &c.

Janardun Pandenang, 5, Bom. H. C. R., A. C. J., 145 ; Muthuvellayāda Pillay, Mad. S. D., 1860, 239 ; Bhoobanessuree Debia, 11, W. R., 535 ; Luckhi Priya, 5, Sel. R., 315, new ed., 369 ; where disease as alleged is a cause of exclusion, the strictest proof of it will be required. Issur Chunder Sen, 2, W. R., 425 ; Tirumamagal Ammal, 1, Mad. H. C. R., 214 ; Woma Coomaree. Hay's Rep., 370—373 ; Gouree Nath, 3, Wym., 45 ; Shama Churn Adhicary Byragee, 6, W. R., 68.

In the case of sons born before the inheritance had vested ; it is now established that property once vested cannot be divested. Callydoss Doss, 2, B. L. R., F. B., 103 ; 11, W. R., A. O. J. ; 11. Held on the same principle that as the father being deaf and dumb could not inherit the grandfather's property, and as the minor son was born to the deaf and dumb man after the grandfather's death, the property of the grandfather passed to his brother, the uncle of the minor. Pareshmani Dasi, 1, B. L. R., A. C., 117 ; see also, 1, W. and Buhl., 288.



7. So the text, "An out-cast, his offspring, an impotent person, one lame, insane, or an idiot, a blind man, one afflicted with an incurable disease, should be supported, since they are excluded from the inheritance."^(b)

8. "*Lame*:" That is, one who cannot walk with both his feet.

9. "*An Idiot*:" One who is incapable of receiving [instruction in] the "*Vedas*."

10. So NAREDA : "Those of the family, who are afflicted with a long and painful disease, idiots, those who are insane, blind, or lame, should be maintained ; but their sons are partakers of the inheritance."

11. "*Long*:" That is, from the period of birth.

12. "*Painful*:" Such as the leprosy, &c.

13. Their sons however if devoid of these faults, are partakers of shares.

14. The maintenance is directed for all, except the out-cast, for a text of NAREDA declares, that "Food and raiment is ordained for all, excepting the out-cast."^(c)

(b) Persons excluded from inheritance are entitled to maintenance. Coleb Da. Bh., Chap. V, para. 11 ; Mit. Chap. II, Sect. X., para. 5 ; Smṛiti Chandrika, Chap. V., 20 ; Vyv. Mayk., Chap. IV Sect. XI, 9 ; 2, Macn. H. L., 192, 1, W. and Buhl., 287 ; 3, Coleb. Dig., 308—324 ; they are not debarred from making or accepting gifts. Kandere Pershad Smṛ., Hay's Rep., 370—373 ; Gomce Nath, 3, Wym., 45-46 ; Shama Chum Adhicary Byragee, 6, W. R., 66.

(c) Since the passing of Act XXI of 1850 change of religion, exclusion from the communion of religion, or expulsion from caste, which under Hindu Law resulted in forfeiture of the right of inheritance, can no longer

15. By the term *out-cast*, his son must also be considered as understood, for he becomes so, in consequence of having been begotten by an out-cast.

16. BAUDHAYANA has declared this explicitly, "Let the coheirs support with food and apparel those who are incapable of business, as well as the blind, idiots, impotent persons, those afflicted with disease, and calamity, and others, who are incompetent to the performance of duties : excepting however the out-cast and his issue."

17. The incompetency of the wives of such persons to inherit has also been declared by the following text.*—"Their childless wives conducting themselves aright, must be supported, but such as are unchaste, should be expelled and so indeed should those who are perverse."—Their daughters also should be maintained until provided with husbands."(a)

NOTE.

* YAJNYAWALCYA.

disqualify a person from succeeding to property if he is otherwise fit. Tara Chund, 3, Mad. H. C. R., 50; Sudanund Mohaputtur, 2, Hay's Rep., 205—207.

(a) Coleb. Da. Bh., Chap. XI. Sect. I. paras. 43 and 44; Mit., Chap. II. Sect. I. paras. 23, 24, 30; Vyv. Durp., 23, 26.

A wife who is unfaithful to her husband, or forsakes his home is excluded from inheriting his property. Mt. Doorga, 28th June, 1862, S. D. N. W. P., 506; Radhamony Raur, Mon. H. L. Cases, 314; Raj Coomaree Dossee, S. D., 1858, 1891. An unchaste daughter is excluded from the inheritance. 2, Macn. H. L., 132. But if the inheritance has once vested no subsequent unchastity can divest the widows. Parvati Kom Dhondiram, 4, Bom. H. C. R., 25, A. C.; Sreemutty Matungini Dabea, 5, B. L. R., 466, O. C. J.; Sammmoney Dossee, 2, Taylor and Bell's Rep., 300; Kery Kolitany, 13, B. L. R., 1.

CHAPTER IV.

ON DIVISIBLE AND INDIVISIBLE PROPERTY.

SECTION 1.

On Property liable to Partition.

1. CATYAYANA has declared the property which is liable to partition : "What belonged to the paternal grandfather, or to the father, and any thing else [appertaining to the coheirs having been] acquired by themselves; must all be divided at a partition among heirs."(*a*)

(*a*) Coleb. Da. Bh., Chap. VI. Sec. I., paras. 1-2.

Whatever is acquired at the charge of the patrimony is subject to partition. Sheo Dyal Tewaree, 9, W. R., 61; Wym, 55; Shreenarain Borah, 6, W. R., 219; 2, Macn. H. L., 162, 164, 165; Raja Baidyanund Sing, 5, Sel. Rep., 198, new edition, 235; Sheopersad Sing, Ibid, 76, new ed., 101; Koshul Chuckerbutty, 1, Ibid, 335, new ed., 448; Sreenath Serma, 1, Ibid, 15, new ed., 19.

A family dwelling house is subject to division. Hullothur Mookerjee, Marshall, 35; Shama Soondery Dossee, Bourke, 327; Koonwar Bejoy Keshab Roy, 2, W. R. Mis., 30. A purchaser in possession of a share. Buddun Chunder Maduck, 5, W. R., 218; Eshan Chunder Banerjee, 8, W. R., 239. A house built by one member at his own expense on property belonging to the family was held not to be divisible. Khooderam Serma, 2, Macn. H. L., 153; 1, Sel. Rep., 35, new ed., 46. Where A had built rooms on joint property, it was argued that all the plaintiffs could ask was division and not the removal of the buildings. But the High Court ordered the buildings to be removed. Guru Das Dhar, 1, B. L. R., 108; Janki Sing, S. D., 1856, 761; Indra Narain Sing, Ibid, 1857, 765.

According to Bengal School a widow can claim a division of her husband's estate. Bhyroo Chund Rai, 1, Sel. Rep., 27, new ed., 36; Neelkant Rai, Ibid, 58, new ed., 77; Ranee Bhovani Dabea, Ibid, 135, new ed., 179; Musst. Jumony Dossee, Macn. Cons. H. L., 64.

2. "*And any thing else:*" The particle "*and*" is here connected with "*themselves*;" Therefore from the use of this particle which occurs in the expression "*and acquired by themselves*," the acquisition of another is also to be understood : provided however such acquisition have been made through the joint-stock, or by [joint] personal labour.

3. Consequently the acquirer has two shares of wealth which has been acquired by the expenditure of the joint-stock, and the rest have only one share each. So VYASA says : "Whatever wealth a man gains with the aid of the patrimony, by valour and the like, the brothers are sharers therein. To him must be allotted two shares, and the remainder should be made equal sharers."

4. "*To him:*" That is, the acquirer, and this is reasonable ; for the acquisition is made on the part of the acquirer both by the use of the common property, and by personal labour ; but on the part of the rest, simply by means of the joint-stock.

Two co-heiresses, in joint possession of property, are in the nature of coparceners, and one of them can enforce partition against the other, notwithstanding the limited character of their tenure, and although such partition might not be binding on the reversioners. *Sreemutti Pudmoni Dasi*, 6, B. L. R., 134.

The rule of impartibility applicable to zemindaries does not extend to personal property of a zemindar, left at his death, and such property is divisible amongst his sons after his death. *Raja R. G. N. Deo*, 5, Mad. H. C. R., 331, *Katama Natchier*, 9, M. I. A., 539 ; *Secretary of State*, 7, M. I. A., 476.

5. In like manner, when an acquisition is made by two persons : by the personal labour of the one, and by means of the wealth, and of the personal labour of the other, then the acquirer by means of personal labour alone, has one share, and the acquirer by wealth and labour has two shares, by parity of reasoning.

6. Therefore these three descriptions of property, viz., ancestral property, wealth acquired by a father, and that which has been acquired by the expenditure of joint-stock, are partible among all ; but wealth acquired by individuals through their own exertions [such as partnership in trade, &c.] must be shared exclusively by the acquirers. This is settled.

7. Wealth however acquired by science, and such other means, without the use even of joint-funds, must be shared with parceners equally or more learned, not with less learned, or unlearned parceners. The text of CATYAYANA declares : “ No part of the wealth which is gained by science, need be given by a learned man to his unlearned coheirs ; but such property must be yielded by him to those, who are equal or superior in learning.”(b)

8. The term “ *learning*,” above, refers alike to the words *equal* and *superior*, like the eye of the crow*

NOTE.

* The crow is supposed monocular.

(b) The ordinary gains of science are divisible when such science has been imparted at the family expense and acquired while receiving a family maintenance : but the rule is otherwise, when the science

[looking two ways.] Therefore the meaning is, *parceners, equally or more learned.*"

9. But if during the period of acquisition of science by one brother, another brother should through his own personal exertions, and by means of his individual wealth, support the family of such brother, then, even though utterly ignorant, he is entitled to a share of the wealth which his [acquiring] brother had gained by means of science. Thus NAREDA declares : "He who supports the family of a brother employed in the acquisition of science, shall even though ignorant, receive a share from the wealth obtained by means of such science."

10. "*Ignorant.*" That is, though a fool.

11. But all the parceners, whether learned or ignorant, are entitled to share in wealth which has been acquired by science, imparted to them by their own family, their father and the rest. VRIHASPATI

has been imparted at the expense of persons not members of the learner's family. Chalakonda Alasani, 2, Mad. H. C. R., 56; the above case was cited with approval and followed by the Bombay High Court in Bai Mancha, 6, Bom. H. C. R., A. C., 1. In Calcutta High Court, however, Mitter, J., remarked as follows :—His (plaintiff's) case in the Court below was that the defendant received his education from the joint estate, and that he is consequently entitled to participate in every property that has been acquired by the defendant by the aid of such education. But this contention is nowhere sanctioned by the Hindu Law, and I see nothing in justice to recommend it. Dhunok Dharee Lal, 10, W. R., 122

See remarks of the Privy Council upon the above rulings. Paulien Valloo Chetty, 4, Cowell's I. A., 109.

says : "Whatever wealth has been earned through valour by brothers, who have derived science from their family, or even from their father, is partible."

12. By the words "*or even*," the grandfather, the uncle and the rest are intended. "*Earned through valour*;"—the gains of valour acquired by means of the expenditure of the joint-stock, for it will be hereafter declared, that wealth acquired without the expenditure of the joint-stock is indivisible.

13. CATYAYANA has particularly described the gains of science, as follows : "What has been gained by the solution [of a difficulty] after a prize has been offered, must be considered as the gain of science, and is not included in partition, [among coheirs.]—What has been obtained from a pupil, or by officiating as a priest, or for [answering] a question, determining a doubtful point, or through display of knowledge, or by [success in] disputation, or for superior [skill in] reading, the sages have declared to be the gains of science, and not subject to distribution. The same rule likewise prevails in the arts ; for the excess above the price ; [of the common goods,] and that which is gained through skill by winning from another a stake at play, must be considered as acquired by science, and not liable to partition. So VRIHASPATI has ordained."

14. "*Gained by the solution of a difficulty*:" As where one agrees with another, "If you resolve this well, then will I give you so much wealth." What is

obtained after this stipulation in consequence of a good solution of the difficulty, is indivisible.

15. "*Obtained from a pupil:*" That is, from one to whom instruction has been afforded.

16. "*Officiating as a priest:*" That is, what has been received as a fee, for having performed for a person, the duties of family priest, ("*Purohit.*")(*d*)

17. Also on the occasion of one having "*propounded a question,*" relative to any particular science, what he bestows on a person, through satisfaction, at having received from him a complete answer.

18. "*So likewise for determining a doubtful point:*" That is, for a determination on a question, proposed with a view to the removal of a doubt, and in this form: "I will give this gold or other consideration to him, who dispels my doubts on this point of Law;"—What in fact is gained (after such a proposition being made,) for having dispelled the doubts of the proposer.

19. Or what is gained by a third person deciding justly between two disputant parties, who mutually appeal to him for his judgment, in the determination of a doubt in a matter of dispute.

20. "*Or for the display of knowledge:*" The meaning of which is, what has been received as a present or

(*d*) The fees received by *Porohits* from *Jujmans* are now partly voluntary gifts and partly payments for work and labour done, and neither of these is the subject of partition under Hindu Law. Jowahir Missr., S. D., 1857, 362; Huregobinda Surma, Ibid, 1850, 296; Ramakanta Surma, Ibid, 1852, 398.

so forth, for having luminously exhibited one's own knowledge in the sacred ordinances, &c.

21. "*So by [success in] disputation:*" That is, what has been obtained by getting the better of another in an argumentative discussion.

22. So likewise, where any particular thing is to be given to one of several *Brahmins*, who reads the "*Vedas in a superior manner.*" So also, what is gained by painters, goldsmiths, [or other artificers,] by the exercise of an art or science.

23. Also what is "*obtained by winning from another at play;*"—All of these are gains of science and indivisible with the rest.*

24. CATYAYANA has stated a special rule: "Wealth gained through science, which was acquired from a stranger, while receiving a foreign maintenance, is termed acquisition through learning."

25. Therefore, an acquisition made through science imparted by others, than a father or an uncle and the rest, [of the acquirer's own family,] and without the expenditure of the joint-stock, must be shared with parceners more or equally learned, but not with those who are less so, or who are wholly ignorant.

SECTION 2.

On Property not liable to Partition.

1. On this subject NAREDA says: "Excepting wealth gained by valour, property received with a wife,

NOTE.

* Vide (7 and 8) Supra.

and the gains of science, these three are indivisible ; as also a paternal gift made through affection.”(a)

2. The meaning of this text is, that since the gains of valour, what has been obtained from the parents-in-law, &c. on account of having espoused a wife, the gains of science, and what has been received through affection from a father and others, are indivisible ; therefore, setting these four aside, the rest [of wealth] is divisible. This is connected with the subject of partition of inheritance. MENU says : “ Wealth acquired by learning, belongs exclusively to him who acquired it. So does any thing given by a friend, received on account of marriage, or presented as a mark of respect to a guest.”*(b)

3. “ *Given by a friend.*” Obtained from a friend.

4. “ *Received on account of marriage.*” That is,

NOTE.

* MENU 9. 206.

(a) The general rule of the Hindu Law of Inheritance is partibility. The succession of a single heir, as in the case of a *Raj*, is the exception. Secretary of State, 7, M. I. A., 476 ; Nellore Narasa Reddy, Mad. S. D., Dec. 27 of 1846 ; Katamanauchiar, 9, M. I. A., 539 ; Rawut Urjun Sing, 5, M. I. A., 169 ; Beemla Debea, 1, Sol. Rep., 32, new ed., 38 ; Urjun Mannick Thakur, 2, Ibid., 139, new ed., 177 ; Naragunty Lutchmeedavamah, 9, M. I. A., 66.

Pottam or office of dignity in a family governed by *Aliya Sullana* Law is indivisible. Timmappa Heggade, 4, Mad. H. C. R., 28 ; Munda Chetti, 1, Ibid., 380.

(b) Land purchased for a boy by means of his *Youtucca*, is not liable to partition. 2, Macn. H. L., 159.

obtained from the parents-in-law, by reason of having become their son-in-law.

5. "*Presented as a mark of respect*:" Obtained for officiating as a priest. MENU declares: "What a brother has acquired by labour and skill, without using the patrimony, he shall not give up without his assent, for it was gained by his own exertion."*

6. So YAJÑAWALKYA: "Ancestral property, which had been before usurped by any one, and afterwards recovered by an heir, is not to be divided among the other heirs—nor are the gains of science."

7. "*Ancestral property before usurped*:" Supposing any one heir without the expenditure of the joint-funds, or unaided by the exertions of the other heirs, to recover such property, it is not divisible among them.(c)

8. He has stated a special rule regarding land: "Land inherited in regular succession, but which had been formerly lost, and which a single heir shall recover, solely by his own labour, the rest may divide, according to their due allotments, having first given him a fourth part."(d)

NOTE.

* MENU 9. 208.

(c) Landed property confiscated by Government, and bestowed on a zemindar, is self-acquired. *The Siva Ganga Case*, 9, M. I. A., 539; E. I. Company, 7, Ibid, 555; Koonwar Bodh Sing, 2, Sel. Rep., 92, new ed., 116; Mahipat Sing, 5, Ibid, 32, new ed., 39.

(d) A member of a joint Hindu family who recovers lost ancestral property is entitled to a fourth share over and above his own individual share. Bissessur Chuckerbutty, 9, W. R., 69; 2, Macn. H. L., 158.

9. *Having given a fourth part of the land recovered, to him who recovered it, let all the rest divide the remaining three shares with him, according to the due proportions to which they are entitled, and take their respective allotments.*

10. This is ascertained from these texts [above cited.]

11. What has been acquired by a separated or an unseparated parcener without the expenditure of the joint-property, and without the assistance of another, belongs exclusively to the acquirer, and is indivisible with the rest. (e)

(e) Property acquired by a joint member by his exclusive industry, without any use of the family funds, is self-acquisition. *Muddun Gopal Thakoor*, 6, W. R., 73; *Gobind Dass and Bhoodeb Dass*, 1, Bom., 241; *Koulath Singh*, 5, Sel. Rep., 12, new ed., 14; *Kishore Monee Dassee*, 7, Ibid., 67, new ed., 78. Land purchased by a coparcener with borrowed money is his self-acquisition. 2, Macn. II L., 151, 152, 154, 155, 156, 161, see also, 2, *Strange's H. L.*, 310.

~~Self-acquired property is never liable to division.~~ *Kaleepersad Roy*, 2, Sel. Rep., 237, new ed. 305; *Joynarain Mullick*, Macn. Cons. II. L., 48; *Kissore Monee Dossee*, 7, Sel. Rep., 67, new ed., 78; *Shama Churn Bundopadhyay*, S. D., 1853, 1; *Gooroo Churn Doss*, Fulton, 165; 2, Macn. II. L., 161; *Brij Rutton Doss*, 1, Sel. Rep., 182, new ed., 241; *Pratab Bahadoor Singh*, 1, Ibid., 178, new ed., 236.

It was held that where the grant is exclusive, it is not partible among collaterals. *Pratab Bahadoor Singh*, 1, Sel. Rep., 178, new ed., 236.

Lands held on Ghatwally tenure, *i. e.*, for defending *Ghats*, or passes, are indivisible. *Raja Lelanund Singh*. 6, M. I. A., 101.

12. The distinction however to be observed in regard to the *gains of science*, has already been declared.*

13. MENU and VISHNU have both declared other descriptions of property to be indivisible : “Clothes, vehicles, ornaments, prepared food, water, women, and furnitures for repose or for meals, are declared not liable to distribution.”†

14. “*Clothes* :” Apparel for the body.

15. “*Vehicles* :” Such as carriages, horses, &c.

16. “*Ornaments* :” Rings, &c.

17. “*Prepared food* :” Sweetmeats, &c.

18. “*Water* :” In wells or tanks.—The water contained in wells and tanks, which have all along belonged to the father and the rest, is not divisible like other property : but must be taken by each coheir according to his exigency. A text declares :‡ “The water of wells and tanks, must be drawn up and used by turns.”

19. “*Furniture for repose and meals* :” Such as the couches and seats adapted to the use of each coheir, and the vessels used by each for the purposes of eating and drinking.

20. Thus VYASA : “A seat, a couch, a place of

NOTE.

* See (7 and 8) Sect. I. Supra

† MENU 9. 219.

‡ VRIHASPATI.

sacrifice, a field, a vehicle, dressed food, water and women, are not divisible among kinsmen.”(f)

21. “*A place of sacrifice :*” That is, where sacrifices are made, or the image of a god is placed ; but not wealth obtained by sacrificing, since that has already been included in the gains of science. Thus CATYAYANA : “The path for cows, the carriage road, clothes, and any thing which is worn on the body, should not be divided, nor what is requisite for use, nor intended for arts.” So VRIHASPATI declares.(g)

22. “*What is requisite for use :*” What is serviceable, such as books, for the use of the learned, should not be divided with fools.*

23. Therefore books must not be taken by the ignorant parceners ; they belong to those of them, who are learned.

* This is the opinion of Daya-bhaga. This portion has been omitted by the translator.—G.

(f) Coleb. Da. Bh., Ch. vi. Sect. 2, pp. 25, 26 ; 3, Coleb. Dig., 375, v. 364 ; Vyv. Mayuk., Ch. iv. Sect. 7, paras. 20—23.

(g) Lands dedicated to religious endowment, places of worship and sacrifices, are not divisible. Anundmoye Chowdrian, 8, W. R., 193 ; Elder Widow of Raja Chutter Sein, 1, Sel. Rep., 180, new ed., 239 ; Joymonce Dabea, 1, Ibid, 180, new ed., 239 ; Bhowany Pershad Chowdoory, 4, Ibid, 343, new ed., 487 ; Ram Chunder Roy, 5, Ibid, 210, new ed., 250 ; Ram Soonder Roy, 5, Ibid, 210, new ed., 250.

The management of lands endowed for religious purposes, is divisible. Elder Widow of Raja Chutter Sein, 1, Sel. Rep. 180, new ed., 239. If there is any surplus after all expenses, is divisible. Rajoo, 2, Sel. Rep., 13, new ed., 16.

Profits due to a religious trust are assets of the trust. Ram Soonder Roy, 5, Sel. Rep., 210, new ed., 250.

24. But the ignorant brother must receive from the learned parcener some other article, equivalent to the share of the books to which he is [otherwise] entitled, or else the value itself thereof; for if it be assumed that the ignorant parcener has no right whatever in the books, then, supposing books alone to constitute the common property, when a partition took place, the ignorant parcener would be entirely deprived of his share.

25. This is however inadmissible, since it would be at variance with the text, which declares : "They who are born, and they who are yet unbegotten, and they who are actually in the womb, all require the means of support : and the dissipation of their hereditary maintenance is censured."

26. Nor must it be supposed, that the application of this text is limited to other cases than the one in question; for if a true conclusion is obtainable without [such] limitation, an erroneous one is arrived at by the supposition [of it.]

27. In like manner, whatever is adapted to the exercise of the arts, should belong to those of the heirs who are artists, and not to the unskilled. The rule above stated holds equally good in this instance.

28. SANC'HIA and LIC'HITA declare : "No division of a dwelling takes place; nor of water-pots, ornaments, and things not of general use; nor of women, clothes, and channels for draining water." VRIHASPATI has so ordained.

29. An habitation, a garden, or the like, which has been constructed by one of the heirs, within the premises, belonging to the dwelling house, during the life-time of the father, is also indivisible : for it is fair to presume, that as the father did not prohibit, he permitted it.

30. This is likewise to be understood, supposing another of the heirs, to have constructed a similar habitation or the like, within the premises of another dwelling house [belonging to the father.]

31. “ *Things not of general use :*” Utensils for purposes of food ; culinary, &c.

32. “ *Women :*” Other than female slaves.

CHAPTER V.

ON A SECOND PARTITION OF PROPERTY AFTER THE
RE-UNION OF COPARCENERS.

1. Re-union is in the first place described for the purpose of explaining a partition made by re-united coparceners.

2. On this subject VRIHASPATI says: "He who being once separated, dwells again, through affection, with his father, brother, or paternal uncle, is termed re-united." (a)

3. Therefore where a person has been once dis-united from his father and the rest ;—afterwards the former partition is annulled by mutual consent of the

(a) A re-union in the sense of Hindu Law must be made by the parties, or some of them, who made the separation. If any of their descendants think fit to unite, they may do so ; but such a union is not a re-union in the sense of Hindu Law, and does not affect the inheritance. Vishwanath Gungadhur, 3 Bom. H. C. R., A. C. J. ; Tara Chund Ghose, 5, W. R., 249. It was considered, and it was held that where re-union has taken place among certain members of a Hindu family after partition, the members of the re-united family and their descendants succeed to each other to the exclusion of the members of the branch not re-united. In the case of Raja Suraneni Venkata Gopala Narasingha, 3, B. L. R., 41 : their Lordships in the Privy Council held that the *onus* of proving re-union is upon the party pleading that there has been a re-union after partition.

See also Kuta Bully Viraya, 2, Mad. H. C. R., 235, where the point arose, but was not decided.

Where a family re-unites the presumption arises, that they are joint in interest. Frankishen Paul Chowdary, 10, M. I. A., 403 ; 5, W. R., P. C., 11.

The re-union must satisfactorily be established by proof. Gopal Chunder Daghoria, 7, W. R., 35.

separated parties, and in consequence of an agreement being concluded to the following effect, "the wealth which is thine, is mine,"—"that which is mine is thine," they resolve on dwelling in the same abode.—This is considered re-union.(b)

4. Here, since the father and the others are particularly specified, re-union takes place with those who are alone described, and not with nephews and the rest, who are not named; otherwise, the specific mention of father and the others would be unmeaning. Such is the opinion according to the *Dāya-Bhāṭya*.

5. The followers of the *Maithila* school are of opinion, that the use of the term father, and the rest, is figurative, and that re-union takes place, when those, whose right to a share of the common property is established by their birth, re-associate, after having once separated: consequently, that re-union can occur with nephews and the rest.

6. With regard then to a partition made by re-united parceners:—

(b) This definition of re-union is not very explicit. Mr Colebrooke renders thus :—When, after having made a partition, they live together, through mutual affection, as inhabitants of the same house, annulling the previous partition, and stipulating, that "The property which is thine, is mine; and that, which is mine, is thine."—*Vide* Coleb. Da. Bh., Ch. VI., Sect. I. para. 13.

According to Hindu Law, if only one brother out of four separated entirely, it is a virtual separation of all; and although the remaining three brothers continue still joint, they are supposed to have re-united. Jadub Chunder Ghose. Vyv. Durp., 2nd ed., 222.

7. In a second partition, made by re-united brothers, the eldest son has no right of primogeniture, but all the brethren of the same class must have equal shares. VRIHASPATI says : "Among brethren, who being once separated, again live together, through mutual affection, there is no right of primogeniture, when partition is again made." (c)

8. Here among brothers or others, connected by parity of relationship, re-associated and unassociated, the re-united parceners are first exclusively entitled to the wealth of the deceased re-united parcener. For a text which will be hereafter recited, declares, that "A re-united [brother]* shall take the share of his re-united [coheir.]"

9. In default of such re-united parcener, the disjointed parceners related as above, are entitled to the succession.

10. In like manner, supposing a father, who has made a partition among his sons, and taken for himself the share allowed him by a law, while unassociated with his sons, to beget another son, and afterwards to

(c) Sons share equally in the property of their deceased father ; the eldest has no claim to a greater share than the rest on the ground of primogeniture. Bhyroo Chund Rai, 1, Sel. Rep., new ed., 36 ; Sheo Buksh Sing, 2, Ibid, new ed., 340 ; Taliwar Sing, 3, Ibid, new ed., 402 ; Issur Chunder Carformah, Macn. Cons. H. L., 74 ; Sivananaja Perumal Sethurayar, 3, Mad. H. O. R., 75.

* Instead of "brother" it should be co-heir, because, the Sanskrit text does not contain any such word, but according to the above context any particular heir ought not to be used.—G.

die, then this son born subsequent to the partition, is entitled to his father's share of the wealth : and not a son who was formerly separated.

11. In like manner the son, who is born after a partition, is not entitled to share in the partition of [the wealth of] the brothers, who were formerly separated [from the father.]

12. Thus VRIHASPATI says : "The younger brothers of those, who have made a partition with their father, whether children of the same mother, or of other wives, shall take their father's share. A son born before partition, has no claim on the paternal wealth ; nor one, begotten after it, on that of his brother. They have no claims on each other, except for acts of mourning and libations of water."

13. *The younger brothers:*" That is, those born subsequent to a partition.

14. If a father should die after having re-united himself with any one of his sons whomsoever, then his wealth is equally shared by the re-united sons and those born subsequent to the partition, according to the text, [of MENU and NAREDA] that "A son, born after a division, shall alone take the paternal wealth ; or he shall participate with such [of the brethren] as are re-united with the father."*

NOTE.

© MENU 9. 216.

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15. A special rule is however to be regarded: where an acquisition has been made by a re-united father, by means of his individual wealth, and through his own personal labour and exertions, such acquisition shall belong exclusively to the son born after a partition, and not to another son who was re-united. (*d*)

16. VRIHASPATI says: "All the wealth which is acquired by the father himself, who has made a partition with his sons, goes to the son begotten by him after the partition. Those born before it, are declared to have no right."

17. Here by the use of the word "*himself*," the author shews the acquisition to have been made with individual wealth, and by means of personal exertion.

18. In like manner a debt incurred by a disunited father on his own account alone, shall be discharged by the son born after partition exclusively. "As in the wealth, so in the debts likewise, and in gifts, pledges, purchases," being the remainder of the text above quoted. (16)

19. Where however a debt has been incurred by a re-united father, for the sake of the community, it shall be discharged both by the re-united parceners, and the sons born subsequent to a partition.

(*d*) A son born after division takes the share allotted to his father on division. Coleb. Da. Bh. Ch. VII., 1—5; Coleb. Mit., Ch. I. Sect. VI., 1—7. Vyv. Mayuk., Ch. IV. Sect. IV., 33-34. Smṛiti Chundrika, Ch. XIII., 6, 7, 11; 1, W. and Buhl., 33.

20. One born after partition, is one who has been born of a conception which took place subsequent to partition, for without conception, there can be no act of procreation.

21. Hence, if a partition be made among sons, while the conception of the woman be yet unknown, then the property which had been divided must be re-collected and a second partition take place, at which the son born of such conception, will be entitled to his share with those brothers who had formerly separated; but the paternal wealth must not be shared with him. (e)

22. What has been declared with regard to the right of a son born after partition to succeed to the wealth of his father, relates to a father's own acquisition, since it is impossible that any partition of the ancestral property should take place until the mother's and the step mother's courses have ceased, and supposing even such a partition to have been made by mistake, it would have no effect, as being contrary to law.

23. All sons, whether born subsequent to partition or otherwise, are entitled to participation in such property; consequently if a father should accidentally have made a partition of ancestral property consisting

(e) A son born after partition is entitled to share with his brothers, if he have foetal existence at the time of the partition, and if he be otherwise capable of inheriting to an ancestral property. Vyv. Durp., 2-3; Coleb. Da. Bh., Ch. VII., 12-13 and annotation, thereon. 1, W and Buhl. 33; Yekeyannau, 4, Mad H. C. R., 307.

of land, &c., and live separate after having taken the share, to which he is by law entitled, still the son born after partition, would be entitled to obtain from his brother and the rest, a share in the wealth derived from the grandfather, and the former partition having been illegally made, must be considered null and void.

24. The text of VISHNU on this point declares, that "Sons, with whom the father has made a partition should give a share to the son born after the distribution."

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CHAPTER VI.

ON PARTITION MADE BY A FATHER OF ANCESTRAL,
AND OF HIS OWN ACQUIRED PROPERTY.

1. A partition made by a father of his own acquired wealth, is regulated by his will alone ; but in regard to a division of the ancestral property, the circumstance of the cessation of the mother's courses must be associated with the father's will. This is the difference. (*a*)

2. Thus VISHNU declares : " When a father separates his sons from himself, his will regulates the division of his own acquired wealth." (*b*)

3. But in regard to ancestral property, GAUTAMA says : " After the [demise of the] father, let sons share his estate, or while he lives, if the mother be past child-bearing, and he desire partition."

4. It should not be argued that this text of GAUTAMA is also applicable to a father's own acquired property ; for if it be alleged that partition of the father's acquired wealth takes place indeed on the cessation of the mother's courses, it would follow that the text [of GAUTAMA] which declares: " A son begotten after partition takes exclusively the wealth of his

(*a*) In Bengal, a son cannot compel his father to divide. The distribution is thus pointed out in Raja Suraneny Lukshmi Venkama, 3, Mad. H. C. R., 40. See also Kumalakant Chuckerbutty, 4, Sel. Rep., 322, new ed., 410.

(*b*) In Bengal, a father may unequally divide his self-acquisition or moveable property among his children. Macn. Cons. H. L., 65 ; 2, Macn. H. L., 147.

father," would be wholly irrelevant; since no son can be born on the extinction of the mother's courses.

5. It must not be asserted, that this last cited text of GAUTAMA relates to ancestral property, and is consequently not irrelevant, for supposing such to be the case, a son born after partition, would be debarred from participation in the ancestral property, and consequently deprived of subsistence : which is forbidden by the text, declaring "They who are born, and they who are yet unbegotten, and they who are actually in the womb, all require the means of support and the dissipation of their hereditary maintenance is censured."

6. Nor should it be said that the son begotten after partition would not be deprived of subsistence, since he would be entitled after his father's death to that share of the ancestral property, which had been taken by him, for supposing the father to have dissipated the whole of such property, the son would inevitably be deprived of subsistence.

7. The fact then is, that this text of VISHNU : "When a father separates his sons from himself, his will regulates the division of his own acquired wealth," is useful, as shewing, that the father's will is absolute in regard to the division of this wealth, and accordingly, that the text of GAUTAMA which exhibits the concomitancy of the cessation of the mother's courses with the will of the father, is strictly applicable to ancestral property. This is correct.

8. Hence in a partition made by a father of his own acquired wealth, he may take as much of it as he pleases, and divide the remainder among his sons according to the text of VISHNU already quoted, and the following text of HARITA : “ A father, during his life, distributing his property, may retire to the forest, or enter into the order suitable to an aged man ; or he may remain at home having distributed small allotments, and keeping a greater portion. Should he become indigent, he may take back from them.” (c)

9. “ *The order suitable to an aged man :*” That is, retirement.

10. “ *Should he become indigent :*” Meaning, should he have spent the whole of his wealth.

11. If a father should give to any one of his sons a greater share, by reason of his good qualities, or of his piety, or of his having a numerous family, or of his incapacity, such a distribution is authorized by law.

12. NAREDA says : “ For such as have been separated by their father with equal, greater or less allotments of wealth, that is a lawful distribution : for the father, is lord of all.”

13. “ *Lord :*” That is, possessed of the power to alienate at pleasure : consequently, this text relates to property acquired by a father himself, by reason of the

(c) A father in Bengal making a division of his self-acquired landed property, must reserve his own legal share, as long as his wife is capable of bearing children ; for otherwise, after born children might be left unprovided for. 2, Macn. H. L., 145.

impossibility of the existence of such a power as above described, in regard to ancestral wealth.

14. A father must not however, while afflicted by sickness or disorder, or labouring under distraction of mind, or inflamed with anger, or influenced by partiality for the son of a favourite wife, distribute a less or greater share to one of his sons, without the existence of any of the causes above-mentioned : for the text of NAREDA declares, “ A father who is afflicted with disease, or influenced by wrath, or whose mind is engrossed by a beloved object, or who acts otherwise, than the law permits, has no power in the distribution of the estate.”

15. “ *Engrossed by a beloved object:*” Such as excessive partiality, for the son of a favourite wife.

16. But when a father makes a partition of the ancestral property, he may take two shares for himself, and allot to each of his sons a single share : for the text of VRIHASPATI which declares, “ The father may himself take two shares at a partition made in his lifetime,” relates to ancestral wealth.

17. It must not be supposed that this text refers to the father's own wealth, since it would contradict the texts of VISHNU and the rest, which declare, that what a father may in such case take, depends entirely upon his own will ; and as he may take a greater or less share, at his pleasure, the restriction of two shares only, would be useless.

18. A father has not the power to make an un-

equal distribution of ancestral property, consisting either of land or a corrody, or slaves, even though any of the causes before-mentioned namely, the superior qualifications of one particular son, &c. should exist, and the text of YAJNAWALCYA, which declares : " The ownership of father and son is the same in land, which was acquired by his father, or in a corrody, or in chat-tels," is intended to restrain the exercise of the father's will ; for (although contrary to the received opinion) [of equal ownership between father and son] it is impossible that, as long as the father, the owner of the ancestral property, continues to survive, his sons should have ownership therein. (d)

19. But the father possesses a power in regard to ancestral property, other than land (and the descriptions above-mentioned,) such as pearls, gems, similar to that which he has in the disposal of his own acquired wealth. YAJNAWALCYA declares : " The father is master of the gems, pearls and corals, and of all [other moveable property :] but neither the father, nor the grandfather, is so, of the whole immoveable estate."

(d) A son has no right in the ancestral property inherited by his father during his father's life. *Kumula Kant Chuckerbutty*, 4, Sel. Rep., 322, new ed., 410. The gift by a father of the whole ancestral estate to one son, subject to the pecuniary provision for the others, is valid. *Eshan Chundra Rai*, 1, Sel. Rep., 2 ; *Ram Coomar Nace Vachuspati*, 2, Ibid, 45, new ed., 52 ; *Ramtonoo Mullick*, 1, Knap., 245 ; *Juggomohan Roy*, *Morton's Rep.*, 90 ; *Huro Lal Chowdhory*, 3, W. R., 226 ; *Radhanath Chowdhory*, 6, Sel. Rep., 35, new ed., 40 ; *Raja Nobokishen*, *Macn. Cons. II L.*, 356.

20. Here, by the specification in the first instance, of *gems, pearls and corals*, and afterwards by the use of the word *all*, gold and other effects, exclusive of the three descriptions of property, consisting of land, &c. are intended. The word *whole*, again, which occurs in the second portion of the above text, is made use of for the purpose of shewing, that a prohibition does not exist against a gift of immoveable property, not incompatible with the due support of the family. Thus it is stated in the *Dāya-Bhūga*.

21. In like manner, a father may at his pleasure, allot to his son, the deduction of a twentieth from his own acquired wealth, or the ancestral property. YAJ-
NAWALCYA says : "If a father make a partition, let him separate his sons at pleasure, and either dismiss the eldest with the best share, or if he choose, all may be equal sharers."—Here the first half of this text relates to a father's own acquired wealth, and the last refers to ancestral property. This is the opinion stated in the *Daya-Bhaga*.

22. When a father makes a partition of his own acquired property, he should give a share equal to the share of a son to such of his wives, as are destitute of male issue. A text of VYASA declares : "Even childless wives of the father, are pronounced equal sharers."

23. The expression "*of the father*" in the sixth case serves to denote, that this distribution is made by him : for it will be hereafter stated, that step-mothers are not entitled to shares, at a partition made by sons.

24. This donation of equal shares occurs, where no peculiar property has been bestowed on a wife, by her husband and the rest. So YAJNAWALCYA says : " If he make the allotments equal, his wives, to whom no separate property has been given by their husbands or their father-in-law, must be rendered partakers of like portions."

25. Where peculiar property has been bestowed on some of the wives, the other wives destitute of male issue, must be rendered by the father partakers of wealth, to the same amount.

26. But where such peculiar property has not been given, then they must be rendered equal sharers with the sons. This is the law in the case, where the sons are made equal sharers.

27. According to the opinion of the *Misras*, where a father has allotted lesser shares to his sons, and reserved the greater portion for himself, equal shares must be made up to his wives from his own portion.

28. In the case however of peculiar property having been given, [to all the wives,] then they will only receive half a share by the rule of analogy, observed in the case of a superseded wife, who has received peculiar property, and who is entitled to receive only half the gratuity [otherwise] given to a wife on her supersession.

29. So the text of YAJNAWALCYA : " To a woman, whose husband marries a second wife, let him give an equal sum, as a compensation for the supersession,

provided no separate property have been bestowed on her : but if any have been assigned, let him allot half.

30. The wealth which is bestowed on a first wife, by a man desirous of marrying a second, is termed a gift of supersession, for the object of it is to contract a second marriage.

31. As much as has been given to a second wife, so much should be bestowed on the first wife. This is the meaning, and conformable to the opinion of the *Dāya-Bhāga*. The *Misras* however assert, that when peculiar property has been bestowed, then there is no gift of a half share, since it is unauthorized by any text.

32. The son of a *Sūdrā*, by a female slave, may at the will of his father, be rendered an equal sharer with the son, born of his wedded wife. On the decease of his father, he is entitled to half a share ;—in default of such a brother, and of a daughter's son, he is entitled to the whole of his father's wealth : but if there be a daughter's son, he must be an equal sharer with him.(c)

(c) This is not the case with superior classes.—G.

An illegitimate son of a *Chāsetriya*, one of the three regenerate caste, by a *Sūdrā* woman cannot, by the Hindu Law of Inheritance, succeed to the inheritance of his putative father, but he is entitled to maintenance out of his deceased father's estate. Chowtreea Run Murdun Sein, 7, M. F. A., 78; 7, Sel. Rep., 292, new ed., 348; Pershad Singh, 3, Sel. Rep., 132, new ed., 176; 2, Macn. H. L., 119.

The Hindu Law independently of special usage or custom does not make illegitimacy an absolute disqualification for caste so as to affect in the relations of life, not only the bastard, but also his legitimate children. Pandaiya Telaver, 1, Mad. H. C. R., 478.

33. Thus YAJNAWALCYA declares : " Even a son begotten by a *Súdrá* on a female slave, may take a share by the father's choice : but if the father be dead, the brethren should make him partaker of the moiety of a share : and one who has no brothers, may inherit the whole property in default of daughter's sons."

34. "*By the father's choice :*" That is, at his pleasure.

35. "*In default of daughter's sons :*" But if there be a daughter's son, then the son of the *Súdra* will be entitled to participate equally with him. The participation is in this case equal, according to the rule by which it is thus settled, when no specification exists to the contrary. It is so stated in the *Daya-Bhaga*.

CHAPTER VII.

PARTITION BY BROTHERS, AFTER THE FATHER'S
DECEASE.

1. Partition by brothers is not lawful during the life-time of the mother, notwithstanding ownership of wealth is vested in them on the decease of the father. The text of MENU, "After the [death of the] father and the mother, the brethren, being assembled, must divide equally the paternal estate : for they have not power over it, while their parents live,"* indicates, that partition should take place after the death of the mother.

2. If however a partition be made during the life-time of the mother, then she must be made an equal sharer with her own sons, according to the text [of VRIHASPATI] which declares, that "the mother should on the decease of her husband be made an equal sharer with her sons." (a)

3. Here since the term mother relates to the

NOTE.

* MENU 9. 104.

(a) Mother's share on partition, equal to that of a son, where no separate property has been allotted to her, but otherwise she is only entitled to half of his son's share. 2, Macn. H. L., 65 ; Shib Chunder Bose. Macn. Cons. H. L., 62 ; Kumalmonee. Ibid, 90.

natural parent, the step-mother does not participate, but she must be maintained with food and raiment. (b)

4. In like manner, in a partition about to be made of the grandfather's wealth by grandsons, the grandmother must be made an equal sharer. By the expression "*similar to mothers,*" in the text, "All grandmothers are pronounced similar to mothers," it is shown, that as the mother is entitled to an equal share in a partition of her husband's wealth, made by her own sons, so in a partition about to be made of the grandfather's wealth by grandsons, the grandmother has an equal share with them.

5. In this instance likewise the contemporary wives of the grandmother are not entitled to participate ; they need only be maintained.

6. For the reason above stated, (§ 3) the term grandmother refers exclusively to the natural parent of the father. This is the received opinion : although in fact, considering the use of the words "*all*" and "*grandmothers,*" (in the plural number) in the text above quoted, it is reasonable, that the contemporary wives of the grandmother should be allowed to participate.

7. But the followers of the *Maithila* school assert, that the word *mother* in this text of VRIHASPATI : "The

(b) The mother of one son is not entitled to a separate share, upon a partition made between that one son and his half-brothers. Joymonce Dossee, Macn. Cons. H. L., 64. A son, succeeding to his father's estate, must maintain his step-mother and her daughters. 2, Macn. H. L., 118; Anand Monce Dossee, S. D., 1852, 563 ; Lalla Joteelal, Suth. F. B., 173.

mother should on the decease of the husband, be made an equal sharer with her sons," (§ 2) intends also the step-mother, in support of which opinion, they adduce the following text of that author of the same import : " In his default, the mother is an equal sharer with her sons ; mothers are equal sharers with them, and daughters are entitled to a fourth part."

8. "*In his default :*" In default of the father, when a partition is about to be made by grandsons.— "*The mother :*" she who has male offspring.— "*Mothers :*" Step-mothers, destitute of male offspring ; all these are sharers in equal proportions with their sons.

9. The sisters also of these sharers must be rendered participators to the amount of a fourth share receivable by their brothers respectively, for the purpose of marriage.

10. The followers however of the *Maithila* school assert, that the sisters should be made partakers in as much as will suffice for the object of their marriage, and according to their opinion also, the contemporary wives of the grandmother are entitled to participate in the wealth of their husband. This should be understood.

11. A partition made by brothers of the same class, is of two descriptions ; either with specific deductions, or equal. A text [of *VRHASPATI*] declares : " Partition of two sorts is ordained for coheirs : one in the order of seniority, the other by allotment of equal shares."

12. "*Order of seniority*:" indicates partition by the mode of deduction;—It must not however be supposed that because the mode by equal division is more generally practised, and the form by deduction seldom observed, that the former is the only mode sanctioned by law, and the latter unauthorized: for a partition by the mode of deduction may take place at the will of [younger] brothers by reason of greater veneration [for their elder brother.]

13. But the mode by equal division is the only one adopted in the present age, because younger brothers are now-a-days seldom met with, who entertain this great veneration, and elder brothers deserving of it are [equally] rare.(c)

14. "*Seniority*:" That is, priority of birth among brothers, all born of mothers or step-mothers alike by class. A text of MENU declares: "As between sons, born of wives equal in their class [and] without [any other] distinction, there can be no seniority in right of the mother; but the seniority ordained by law is according to birth."*

15. "*Women equal in their class*:" That is, of the same class.

NOTE.

* MENU 9, 125.

(c) The allotment of a superior portion to the eldest brother, is token of reverence, is obsolete. Coleb. Da. Bh., Chap. III., Sect. 2, paras. 26, 27. Smṛiti Chundrikā, Ch. III, para. 16; Mitaeshara, Chap. I., Sect. 3, paras. 4—7.

16. An appointed daughter and a legitimate son are entitled to equal participation. The appointed daughter is not entitled to the share of an elder brother by reason of priority of birth, for a text of MENU declares : " But a daughter having been appointed to produce a son for her father, and a son [begotten by himself] being afterwards born, the division of the heritage must in that case be equal : since there is no right of primogeniture for a woman."*

17. The deduction of a twentieth takes place only in the case of partition among brothers not uterine, but in a partition made among brothers of the whole blood alone, the eldest is entitled to two shares. Thus VRIHASPATI declares : " All sons of regenerate men, born of women alike by class, should share alike, after giving a deduction to the eldest."

18. "*Women alike by class*:" Meaning, where there are several of them.—Since the mention of a deduction occurs in this text with respect to "*sons born of [different] women alike by class*," therefore, what has been declared regarding the eldest taking two shares, by that part of the text of MENU,† which says : "*Let the eldest take a double share*," and also by the text of GAUTAMA : "Let the first born *have a double share*," must be understood to apply to the case of a partition made among uterine brothers alone, ac-

NOTE.

* MENU 9. 134.

† MENU 9. 117.

according to the principle which admits of a special provision, limiting the operation of a general rule.

19. Further, since the above cited text [of VRIHASPATI] specifies "*women alike by class,*" *Brahmana* and other sons born of *women of different tribes* are entitled in their due order, to four, three, two and one share. Thus MENU declares: "Let the son of the *Bráhmāni* take four parts; the son of the *Chsetriya* three; let the son of the *Vaisya* have two parts; let the son of the *Súdrá* take a single part [if he be virtuous.]*

20. A *Súdrá* is entitled to one share, because he is bound to perform certain religious initiatory ceremonies, after the birth of his son.

21. The term "*regenerate,*" in the above quoted text of VRIHASPATI, (§ 17) is merely illustrative; consequently the deduction of twentieth, and the other [namely the double share] take place even in favour [of the eldest son] of a *Súdrá*, who is equally entitled to a larger share, since he, without distinction, confers benefits by delivering his father from the hell, named *Put.*

22. Therefore the text of MENU,† which declares: "For a *Súdrá* is ordained a wife of his own class and no other: all produced by her shall have equal shares, though she have a hundred sons," should be consi-

NOTE.

* MENU 9. 153.

† MENU 9. 157.

dered as prohibiting the marriage of a *Súdrá* with a woman of a different class, and declared for the purpose of forbidding an unequal distribution by reason of difference of class ;—not as prohibiting the deduction of a twentieth, &c. This is considered to be right.

23. In a partition made between legitimate and adopted sons, the legitimate son has two shares, and the adopted sons, who are of the same class with the father, take one share ; but adopted sons belonging to an inferior class, are not entitled to any share.—They need only be supported with food and raiment.

24. NAREDA declares : “ All these sons are pronounced heirs of a man, who has no legitimate issue by himself begotten, but should a true legitimate son be afterwards born, they have no right of primogeniture. Such among them as are of equal class, [with the father,] shall have a third part as their allotment ; but those of a lower tribe must live dependent on him, supplied with food and raiment.”

25. “ *Heirs* :” That is, partakers of the father’s whole estate.—“ *Such among them* :” Meaning, such sons as are of equal class [with the father.]

26. A partition should be made by sons of the wealth of their deceased father, which remains after discharging his debts ; or with the consent of the creditors, the partition may take place first, and the debts be afterwards discharged.

27. NAREDA declares : “ What remains of the

paternal inheritance over and above the father's obligations, and after payment of his debts, may be divided by the brethren; so that their father continue not a debtor."

28. Here from the expression, "*So that the father remain not a debtor*," it appears, that the debts may be cleared off subsequent to the partition: otherwise, it would be unmeaning.

29. In like manner, whatever excess has been expended by one brother, in consequence of his having a large family, should not be taken into account at the time of the partition. But a partition should be made of the wealth, which is actually forthcoming.

30. The text of NAREDA declares: "Among unseparated kinsmen, let not one restore what has been expended. A partition should takeplace of the visible wealth, corrected for income and expenditure."

31. From the use of the particle ["*va*,"] in this text, the meaning of the word *strictly* is intended to be conveyed. Consequently, having compared the amount of the wealth, which had accumulated at a time when no partition had taken place, with the amount expended, a division should be made of the balance actually remaining.

32. VYASA has declared, that the initiatory ceremonies of uninitiated brothers and sisters, should be performed from the paternal wealth: "Uninitiated brothers should be initiated from the father's wealth by those elder brothers, for whom the ceremonies have



been already performed," and the sisters should also be disposed of in marriage ; if there be no wealth of the father, they must be initiated at the expence of their brothers. A text of NAREDA recites : " If no wealth of the father exist, the ceremonies must without fail be defrayed by brothers already initiated, contributing funds out of their own portions."

CHAPTER VIII.

ON THE DISTRIBUTION OF EFFECTS CONCEALED.

1. The partition of effects concealed by some one parcener at the time of partition, and subsequently discovered, is next declared.

2. On this subject the following text of MENU occurs : " When all the debts and wealth have been justly distributed according to law, any thing which may be afterwards discovered, shall be subject to an equal distribution."—The distribution of such concealed effect with the concealer, should be exactly conformable to that, which had been before made. A less share is not to be given to him by reason of his concealment, nor is he on that account to be altogether excluded from participation : This is the meaning of, "*shall be subject to an equal distribution.*" It is not intended by the text, that all shall share equally in the concealed effect, as there exists not any reason for the prohibition of the deduction of a twentieth, and it would moreover follow, that the *Brahmana* and *Chsetriya* sons would participate equally. Thus CATYAYANA declares : " Effects which are withheld by them from each other, and property which has been ill-distributed, being subsequently discovered, let them divide in equal shares. So BHIRGU has ordained."

3. "*Subsequently discovered.*" By this it is shewn, that partition is to take place of the concealed

effects alone, and not that a second partition is to be made, of what has already been once divided.

4. "*Property which has been ill-distributed:*" Intending that property, of which a distribution has been made contrary to law,—through error and the like, must be again divided according to law, for that part of the text of MENU,* which declares: "Once is the partition of inheritance made," is intended to forbid a second partition after the first has been legally made. It is therefore determined, that the division of concealed property must be made with the person, who concealed it, as has already been declared.

NOTE.

* MENU 9. 157.

CHAPTER IX.
ON THE ALLOTMENT OF A SHARE TO A COPARCENER
RETURNING FROM ABROAD.

1. VRIHASPATI declares : “ Whether partition have or have not been made, whenever an heir appears, he shall receive a share of whatever common property there is.”

2. “ *An heir :*” An inheritor.

3. “ *Common property :*” Common to all.

4. Further, “ Be it debt, or a writing, or house or field, which descended from his paternal ancestor, he shall take his due share of it, when he comes, even though he have been long absent.”

5. By this it is not meant, that he alone shall take his due share of it, but that his descendants, (who are *Sapindas*) down to the seventh degree, shall also take their shares,—as the same author has declared : “ If a man leave the common family and reside in another country, his share must no doubt be given to his male descendants, when they return. Be the descendant, third, fifth, or even seventh in degree, he shall receive his hereditary allotment on proof of his birth and name. To the lineal descendants, when they appear of that man, whom the neighbours and old inhabitants know by tradition to be the proprietor, the land must be surrendered by his kinsmen.”

6. “ *Old inhabitants :*” Meaning cognates.

7. “ *Neighbours :*” Those residing in the vicinity.

8. "*Land*:" This expression is merely used figuratively for any description of common property.

9. Therefore, it is a settled point, that one who travelled into a foreign country, at a period when no partition had taken place, and returned after a long lapse of time, as well as his descendants, as far as the seventh in degree, after they shall have made themselves recognized by the elder inhabitants and neighbours, shall obtain a lawful share of the heritable wealth.

10. This is the law relative to the allotment of a share to a parcener, who had journeyed into a strange land.

11. But descendants only, as far as the fourth degree of one, who had remained all along in his own country, are entitled to share his wealth, for it has been formerly declared, that the fifth in descent and the rest confer no benefits on a deceased owner, since they are not competent to present funeral oblations to him at solemn obsequies.

CHAPTER X.

ON PARTITION BETWEEN SONS BORN OF THE SAME
MOTHER, BUT OF DIFFERENT FATHERS.

1 VISINU says : “ If there are two sons begotten by two fathers, but born of the same mother, let each of them take that which was the father’s property and not the other.” Let the son take the wealth of him, from whose soever seed he is produced, and not the other, that is, the son born from another’s seed should not take it. Such is the meaning.

2. The law regarding equal participation, &c., does not therefore apply to this case.

3. In like manner, in a partition by sons of this description, let each son take, (exclusively of the other ;) of the wealth of their mother, what was given to her, by their fathers respectively, according to the text of NAREDA, which declares : “ If two sons begotten by different fathers contend for the wealth of the woman, let each of them take that which was his father’s property and not the other.”*

4. In the case however of an acquisition made exclusively by the mother, the participation is equal.

* MENU 9. 191. and cited from his institutes by numerous compilers : but referred by Jimuta Vahana and Rughunandana to Nareda. It is not, however, found in the institutes of his author. *Vide* Cole. Dāya Bhāga, Chap. X., § 17, Note.

CHAPTER XI.

ON THE POWER OF ONE PARCENER TO MAKE A DONATION OR OTHER ALIENATION OF JOINT PROPERTY.

1. Some maintain, that a gift cannot be made by one [parcener] of joint property, a prohibition against such transfer being contained in this text [of MENU] : "The prohibition of giving away, is declared to be eight-fold : A man shall not give joint property, nor his son, nor his wife, nor a pledge, nor all his wealth, nor a deposit, nor a thing borrowed for use, nor what he has promised to another ;" and they have further deduced the want of the right of one parcener to make a gift of the whole immoveable estate, or of what is common to the family, from the two following texts of VYASA : "A single parcener may not without the consent of the rest make a sale or gift of the whole immoveable estate, nor of what is common to the family."—"Separated kinsmen, as those who are un-separated, are equal in respect of immoveables ; for one has not the power over the whole, to give, mortgage or sell it."

2. The opinion held by those, who maintain the invalidity of a gift or sale, [of joint property,] at the will of one parcener, is grounded on the doctrine, that co-parceners possess a general property in the estate :—in fact, that all of them have a right to the whole estate. This opinion is incorrect ; for it has been rejected by

the author of the *Dāya-Bhāga*, as unsupported, by authority.

3. Accordingly, the author of the *Dāya-Bhāga*, having cited the texts of VYASA, for the purpose of refutation, and taken up the argument maintained from those texts by those of the opposite opinion, namely, the want of authority of any single parcener to make a gift, says : “ For here also as in the case of other goods, there equally exists a property consisting in the power of disposal at pleasure,” and adds “ But the texts of VYASA exhibiting a prohibition are intended to shew a moral offence : since the family is distressed by a sale, gift or other transfer, which argues a disposition in the person to make an ill use of his power as owner. They are not meant to invalidate the sale or other transfer.” This is determined.

4. “ *As in the case of other goods :*” Meaning goods, which are not common.

5. “ *Here also :*” “ In the very instance of land held in common.”

6. “ *Equally exists :*” Intending that there is no distinction of ownership.

7. Since therefore there is no general property of parcnens in the whole estate, it is fallacious to suppose, that a plurality of owners constitutes community, and community must therefore be considered as meaning the state of not being separated. For as propriety exists in the common property, even before partition, there is nothing to prevent the gift or other alienation

by a parcener of his own share, even at that time. This is the opinion entertained by the author of the *Daya-Bhaga*, who maintains a partial right to a certain portion [of the estate ascertainable by partition] vested in each individual owner. Accordingly NAREDA says : “ When there are many persons sprung from one man, who have duties apart and are separate in business, and character, if they be not accordant in affairs, should they give or sell their own shares, they do all that as they please, for they are masters of their own wealth,” and thereby, shews that in transactions about to be concluded by one parcener, he has the power to give or otherwise dispose of his own share, without the consent of the rest.

8. It should not be said, that this text refers to a state of separation, for since the want of ownership [by one parcener in the portion allotted to another] is in that case clearly determined, the consent of either to the transactions of the other, is totally out of the question. Such being the case, the text [of VRIHASPATI above cited] which enumerates common property as not being a subject of donation, must be considered merely in the light of a prohibition, and not as meant to invalidate the transfer.—It is thus stated in the *Smṛiti Sara* and other books.

9. Therefore, a gift by a parcener of his own share of the common property is valid, whether such gift have been made antecedent, or subsequent to partition.

10. The debt incurred by a slave for the support

of the family of his master, while in a foreign country, or elsewhere, must be entirely discharged by the master.

MENU . says : " Whatever contract a dependent may conclude for the benefit of the family, let not his master, whether in his own or in a foreign country rescind."*

11. "*A dependent*:" A slave.

12. "*Contract, debt, &c.*"

NOTE.

* MENU 8. 167.

CHAPTER XII.

ON SLAVERY.

SECTION I.

Descriptions of Slaves.

1. Slaves are of fifteen descriptions and are thus described by NAREDA : "One born [of a female slave] in the house of her master ; one bought ; one received [by donation ;] one inherited from ancestors ; one maintained in a famine ; one pledged by a former master ; one relieved from a great debt ; one made captive in war ; a slave won in a stake ; one who has offered himself in this form, "I am thine ;" an apostate from religious mendicity ; a slave for a stipulated time ; one maintained in consideration of service ; a slave for the sake of his bride ; and one self-sold, are fifteen slaves declared by the law." ¶

2. "*Born in the house :*" Born of a female slave in the house [of her master.]

3. "*Inherited :*" Succeeded to from ancestors.

4. "*Maintained in a famine :*" By reason of a dearth.

5. "*Pledged by a former master :*" Granted as a pledge in consideration of a loan.

6. "*One relieved :*" One who has consented to become a slave, in consequence of being relieved from a great debt. Such is the meaning.

7. "*I am thine :*" One who not being the slave of any one, surrenders himself in this form to slavery.

8. "*An apostate from religious mendicity :*" Abandoning the order of *Sunnyasee*.

9. "*Stipulated :*" One who influenced by some motive or other, contracts an engagement in this form, I am thine for a certain period.

10. "*Maintained :*" One who has consented to become a slave even in a time of plenty, for the sake of obtaining a maintenance.

11. "*A slave for the sake of his bride :*" One who has consented to slavery under the influence of desire. *VRIHASPATI* says : " But the man who cohabits with the female slave of another should be considered as a slave for the sake of his bride ; he must perform work for her master like other slaves, or like servants for pay."

12. "*Her master :*" The master of the female slave.

13. *NAREDA* declares, as follows, respecting the apostate from religious mendicity : " The man who is an apostate from religious mendicity, becomes the slave of the king, giving a pair of cows, and he ought never to be emancipated nor purified."

14. Those only of the *Chsétriya* and *Vaisya* tribe

who thus apostatize, become slaves to the king; but *Bráhmaṇas* of this description, should suffer banishment, in lieu of slavery. Thus CATYAYANA says: "Where men of the three twice-born classes forsake religious mendicity, let the king banish a man of the sacerdotal class, and reduce to slavery a man of the military or commercial tribe."

15. The expression "*military or commercial*" [*Chsētra* and *Vis*] appears in the form of a conjunctive compound, and if considered in the [accusative or] 2d case, it becomes the object of the transitive verb.

SECTION 2.

On Emancipation from Slavery.

1. Of the slaves above-mentioned, the first four: (one born in the house, one bought, one received, one inherited,) and the slave self-sold, are not of right released from slavery, unless they be emancipated by the indulgence of their masters.

2. "*A slave maintained in a famine,*" becomes emancipated on repaying what he consumed during the dearth, and on giving a pair of oxen.

3. "*A slave maintained only,*" is enfranchised by relinquishing his maintenance.

4. "*A slave for the sake of his bride,*" is emancipated by quitting her.

5. "*A slave pledged,*" is redeemed from his sla-

very to the creditor, on the re-payment of the debt incurred by his [former] master.

6. Should any one of these slaves rescue his master from danger menacing his life, or from impending peril, he is entitled to emancipation.

7. CATYAYANA declares : "A free woman, or one who is not a slave of the same master, becoming the bride of a slave, also becomes a slave to her husband's owner, for her husband is her lord, and that lord is subject to a master."

8. Here by reason of the connection implied by the term slave, the woman is understood to become the female slave of the master, suggested by that term.

9. The female slave is of two descriptions : first, not mancipated to any one ; and secondly, the slave of another.

10. The woman of the first description becomes simply by her marriage with a slave, the female slave of the master of her husband.

11. The female of the second description becomes a slave with her husband's permission, but not otherwise. •

12. In like manner by parity of reasoning, if a man, not the slave of any one, marry a female slave, then he becomes a slave to the master of his wife.

13. But should a man, the slave of another, marry with the consent of his master, he becomes the slave of the master of the female slave.

14. In like manner, if a female slave unite herself in marriage with a slave, without her master's permission, then each remains the property of their masters respectively, but their offspring should be shared by both owners.

15. It must not be supposed from the following texts of MENU, "Whatever man, owns a field, if seed, conveyed into it by water or wind, should germinate, the plant belongs to the land owner ; the mere sower takes not the fruit.—Such is the law concerning the offspring of cows, and mares, of female camels, goats, and sheep, of slave girls, hens, and milch buffalos,"* that such offspring belongs exclusively to the owner of the female slave ; for the female slave therein mentioned, refers to one, who has been once married, [and afterwards contracted another marriage with the slave of a different owner.]—But the offspring as above described of a female slave [regularly] married, must be shared.

16. Thus is concluded the Compendium of the Law of Inheritance, by SRI CRISHNA TERCALANCARA BHUTTA-CHARRUJ.

NOTE.

- MENU 9, 54, and 55.

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দায়ক্রমসংগ্রহঃ ।

ওঁ নমোগণেশায় ।

জগদম্বাপদদ্বন্দ্বমাপদাং ক্রয়সাধনং ।
বিশ্বকোট্যিবিনির্ম্মাণস্থিতিসংহারকারণং ।
নিধায় হৃদয়ে দায়াধিকারক্রমসংগ্রহঃ ।
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প্রথম অধ্যায়ঃ ।

প্রথম পরিচ্ছেদঃ ।

অথদায়াধিকারক্রমঃ ।

২। তত্রাদৌ যুতধনে ঔরসপুত্রম্যাধিকারঃ, উদ্ধ্বং পিতৃশ্চ
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হি জীবতোরিত্যাদিবচনৈঃ পিতৃমরণানন্তরং পুত্রস্য স্বহ-
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৩। তদভাবে পৌত্রস্য। তদভাবে প্রপৌত্রস্যাধিকারঃ।
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 ৪। জীবৎপিতৃকয়োস্তু পৌত্রপ্রপৌত্রয়োর্নাধিকারঃ পার্বণ-
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দ্বিতীয় পরিচ্ছেদঃ।

১। এষামভাবে পত্নী ধনাধিকারিণী। পত্নী দৃষ্টিতরশ্চেবে-
 তাদিবচনাৎ।

২। তত্রায়ং বিশেষঃ।

৩। পত্নী তদ্ধনং ভুক্ত্যৈব, ন তু তস্য দানানুবিক্রয়ান্
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 গুরৌ স্থিতা। ভুক্ত্যৈতামরণং ক্ষান্তা দায়াদা উদ্ধৃমাণুযুঃ।

৪। গুরৌ স্থিতেতি, শ্বশুরাদৌ ভর্তৃকূলে স্থিতা। যাবজ্জীবং
 তদ্ধনং ভুক্ত্যৈব, ন তু স্ত্রীধনবৎ স্বাচ্ছন্দ্যং দানাদধমনবিক্রয়ানপি।

৫। তস্যাস্তু মৃত্যোঃ পত্ন্যভাবে যা দুহিতরোহধিকারিণ্যঃ,
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 স্তানুপপত্তেঃ। তথা দানধর্ম্মে। স্ত্রীণাং স্বপতিদায়স্ত উপ-
 ভোগফলঃ স্মৃতঃ। নাপহারং স্ত্রিয়ঃ কুর্ধ্যুঃ পতিদায়াং কথঞ্চন।
 উপভোগোহি ন সূক্ষ্মবস্ত্রপরিধানাদিনা, কিন্তু অশরীরধারণেন
 পত্ন্যপকারভোগানুজ্ঞানং। এবঞ্চ ভর্তুরৌদ্ধদৈহিকক্রিয়াধং
 দানাদিকমপ্যনুমতং। অতএব নাপহারং স্ত্রিয়ঃ কুর্য়ুরিত্যাদি-
 ন্নপহারবচনং। অপহারশ্চ ধনস্বাম্যানুপযোগে ভবতি।

৬। অতএব বর্তমানশক্তৌ আধমনমপ্যনুমতং তদশক্তৌ
বিক্রয়ণমপি ।

৭। ভর্তুরৌর্দ্ধদেহিকক্রিয়ার্থমর্থানুরূপং ভর্তৃপিতৃব্যাদিভ্যো-
দদ্যাৎ । তদাহ বৃহস্পতিঃ । পিতৃব্যগুরুদৌহিত্রান্ ভর্তৃ-
স্বশ্রীয়মাতুলান্ । পূজয়েৎ কব্যপূর্তাভ্যাং বৃদ্ধানাথাতিথীন
স্ত্রিয়ঃ । পিতৃব্যপদং ভর্তৃসপিণ্ডপরং দৌহিত্রপদং ছুহিতৃ-
সন্তানপরং স্বশ্রীয়পদং ভর্তৃস্বশ্রীয়সন্তানপরং মাতুলপদঞ্চ
ভর্তৃমাতুলপরং । তদেবমাদিভ্যোদদ্যাৎ ন পুনরেবমাদিষু
সংস্বেষ পিতৃকুলেভ্যঃ পিতৃব্যাদিবচনানর্থক্যাৎ । তদনুমত্যা-
স্বপিতৃমাতৃকুলেভ্যোপি দদ্যাৎ । তদাহ নারদঃ । মৃত্যে ভর্তৃব্য-
পুত্রায়াঃ পতিপক্ষঃ প্রভুঃ স্ত্রিয়াঃ । বিনিয়োগার্থরক্ষাসু ভরণে চ
স ঈশ্বরঃ । পরিক্ষীণে পতিকূলে নিশ্চিন্মুখ্যে নিরাশ্রয়ে । তৎ-
সপিণ্ডেষু চানংসু পিতৃপক্ষঃ প্রভুঃ স্মৃতঃ । বিনিয়োগে দানাদৌ ।
পতিপুত্রাভাবে ভর্তৃকলপারতন্ত্র্যং তস্যা ইতি দায়ভাগঃ । পত্নী-
চাধুনা সর্বণৈব কল্যানসবর্ণাবিবাহনিষেধাৎ ।

তৃতীয় পরিচ্ছেদঃ ।

১। পত্ন্যভাবে দুইহিতা, অপুত্রস্য চ স্যা কন্যা ধর্মজা পুত্রব-
ন্ধরেদিত্যাদিবচনাৎ । স্যা সর্বণা, ধর্মজা ঔরসী ।

২। তত্রাপি প্রথমং কুমারী । অপুত্রস্য মৃতস্য কুমারী ঋক্খং
গৃহীয়াৎ তদভাবে চোচেতি পারাশরীয়াৎ ।

৩। তত্রায়ং বিশেষঃ । কন্যাজাতাধিকারো পশ্চাৎ পরিণীতা
সতী অবিদ্যমানপুত্রো যদি ত্রিয়েত তদা তৎ পিতৃদায়ে নপু-

ত্রায়াঃ সম্ভাবিতপুত্রায়াশ্চ ভগিন্যাস্তল্যোহধিকারঃ নতু তদু-
ত্রাদীনাং, স্ত্রীধনএব তেষামধিকারাৎ ।

৪। কুমার্য্যভাবে চোঢ়ায়াঃ পুত্রবত্যাঃ সম্ভাবিতপুত্রায়াশ্চ
ভগিন্যাস্তল্যোহধিকারঃ, তয়োরেকতরাভাবে একতরাধিকারঃ
উক্তপরাশরবচনাৎ । সদৃশী সদৃশেনোঢ়া সাধ্বী শুশ্রূষণে রতা ।
কৃতাহকৃত্য বা পুত্রস্য পিতুর্ধনহরী তু সা ইতিবচনাৎ, স্বপুত্র-
দ্বারেণ পার্শ্বগণপিণ্ডদাতৃত্বা তয়োরুপকারাবিশেষাক্ষ ।

৫। বক্ষ্যাপুত্রহীনবিধবয়োস্ত পুত্রদ্বারেণ পার্শ্বগণপিণ্ডদানো-
পকারাভাবাৎ পুত্রবতীসম্ভাবিতপুত্রয়োঃসদ্বৈপি নাধিকার
ইতি দীক্ষিতমতং দায়ভাগকৃত্যাদ্যদৃতমিতি বোধ্যঃ ।

চতুর্থ পরিচ্ছেদঃ ।

১। সর্ব্বদুহিতভাবে দৌহিত্রস্যাধিকারঃ । দৌহিত্রোহ্যথিলং
স্বক্থমপুত্রস্য পিতুর্হরেৎ । সএব দদ্যাৎ দৌ পিণ্ডো পিত্রে
মাতামহায় চেত্যাদিবচনাৎ । পিতুঃ, মাতুঃ পিতুরিত্যর্থঃ । অ-
পুত্রস্যেতি দুহিতৃপর্য্যস্তাভাবোপলক্ষণঃ; অন্যথা পত্নী দুহিতর-
শ্চৈবেত্যাদি যাজ্ঞবল্ক্যপ্রভৃতিবিরোধঃ স্যাৎ ।

২। অতএবোক্তবচনাৎ পুত্রাভাবএব দুহিতৃসদ্বৈপি দৌ-
হিত্রাধিকারঃ, ইতি গোবিন্দরাজমতমপাস্তং ।

৩। মৈথিলাস্ত পত্নীদুহিতরশ্চৈবেত্যাদি নানাবচনবোধ্যাধি-
কারিণাং সর্ব্বেষাং পশ্চাৎ দৌহিত্রাধিকারমাহঃ, তদসৎ, রাজ্ঞো-
হপ্যাধিকারিতয়া পরিগণিতত্বাৎ তদভাবস্য কদাপ্যসম্ভবাৎ ;

ফলতো দৌহিত্রস্যাধিকারাব্যবসানে দৌহিত্রস্যা-
ধিকারপ্রতিপাদকবচনানাং নির্বিষয়ত্বাপত্তেঃ ।

পঞ্চম পরিচ্ছেদঃ ।

১। দৌহিত্রাভাবে পিতুরধিকারঃ, বিভক্তে সংস্থিতে বিত্তং
পুত্রাভাবে পিতা হরেদিতি কাত্যায়নীয়াৎ, মৃতভোগ্যপিওদয়-
দাতৃত্বেন উপকারকত্বাচ্চ । মিশ্রাস্ত তদভাবে মাতৃগামি তদ-
ভাবে পিতৃগামি ইতি বিষ্ণুবচনে পাঠঃ কল্পয়িত্বা পিতুঃ পূর্বং
মাতুরধিকারমাহঃ ।

তন্ম ; তদভাবে পিতৃগামি তদভাবে মাতৃগামীতি বিপ-
রীতপাঠসৈব্যাকরসিদ্ধত্বাৎ । তথৈব সৰ্বৈর্নিবন্ধুভিলিখিত-
ত্বাৎ উক্তকাত্যায়নবিরোধাৎ । বীজস্যৈব চ যোনাশ্চ বীজমুৎ-
কৃষ্টমুচ্যতে ইতিমনুবচনাবগতোৎকর্ষণে চ মাতুঃ পূর্বং পিতু-
রধিকারস্যৈব শাস্ত্রার্থত্বাচ্চ ।

ষষ্ঠ পরিচ্ছেদঃ ।

১। পিতুরধিকারাবে মাতুরধিকার, উক্তবিষ্ণুবচনাৎ ।

২। ভার্যাপুত্রবিহীনস্য তনয়স্য মৃতস্য চ । মাতা ঋক্খহরী
জ্ঞেয়া ভ্রাতা বা তদনুজ্ঞয়েতি বৃহস্পতিবচনাৎ, তন্তোগ্য
পিত্রাদিপিওদ্রয়দাতৃত্বদভ্রাতৃজননোপকারকত্বাচ্চ ।

সপ্তম পরিচ্ছেদঃ ।

১। তদভাবে সৌদরস্যাধিকারঃ, তন্তোগ্যপিত্রাদিত্রয়পিও-
দাতৃত্বাৎ ।

২। সৌদরাভাবে সজাতীয়বৈমাত্রেয়াণাং, তন্তোগ্যপিত্রাদি-

ত্রয়পিণ্ডদাতৃহাৎ । পিতরৌ ভ্রাতরন্তুথেতি যাজ্ঞবল্ক্যবচনাৎ
একপিণ্ডজাতত্বেন বিগতপুত্রাণামধিকারঃ ।

৩। অত্র যদি সোদরাসোদরৌ ভ্রাতরৌ অসংসৃষ্টিনৌ
স্যাতাং, তদা সোদরস্য ধনং সোদর এব গৃহীয়াৎ, যথা সোদ-
রস্য তু সোদরঃ ইতি বচনাৎ ।

৪। যত্র সংসৃষ্ট্যসোদরোহসংসৃষ্টী সোদরশ্চ তদা উভাভ্যা-
মেব গ্রহীতব্যং তদिति, অন্যোদর্যাস্তু সংসৃষ্টীতি বচনাৎ ।

৫। যদা সোদরাসোদরৌ সংসৃষ্টিনৌ তদা সংসৃষ্টী সোদরএব
গৃহীয়াৎ তস্যোভয়ধর্মবদ্ধাৎ সংসৃষ্টিনস্তু সংসৃষ্টীতি বচনাৎ ।

৬। এবমধিকারিত্বং সোদরাসোদরভ্রাতৃপুত্রাণামপি ।

অষ্টম পরিচ্ছেদঃ ।

১। তদভাবে সোদরভ্রাতৃপুত্রস্যাধিকারঃ, নতু বৈমাত্রেয়-
ভ্রাতৃপুত্রস্য তদন্তধনিপিতৃপিতামহপিণ্ডে ধনিমাতৃপিতামহী
ভোগ্যত্বাভাবেন সোদরভ্রাতৃপুত্রাপেক্ষয়া ন্যূনোপকারকত্বাৎ ।

২। স্মেন ভত্রী সহ শ্রাদ্ধং মাতা ভুঙ্তে স্বধাময়ং । পিতা-
মহী চ স্মেনৈব স্মেনৈব প্রপিতামহীত্যাदिषু পিত্রাদিপিণ্ডে
পিণ্ডদাতৃমাত্রাদীনামেব ভোগশ্রুতেঃ ।

৩। সংসর্গ্যসংসর্গিসোদরভ্রাতৃপুত্রেষু সংসর্গিভ্রাতৃপুত্রস্যা-
ধিকারঃ ।

৪। এবং সংসর্গ্যসংসর্গিবৈমাত্রেয়ভ্রাতৃপুত্রেষু সংসর্গিবৈমা-
ত্রেয়ভ্রাতৃপুত্রস্যাধিকারঃ ।

৫। যদা ত্বসংসর্গিসৌদরভ্রাতৃপুত্রঃ সংসর্গী চাসৌদরভ্রাতৃপুত্রঃ
তদা তয়োষুর্গপদধিকারঃ ।

৬। যদা পুনঃ সৌদরবৈমাত্রেয়ভ্রাতৃপুত্রৌ সংসর্গিনৌ, অসং-
সর্গিনৌ বা, তদা উভয়ৈথৈব সৌদরভ্রাতৃপুত্রস্যাধিকারঃ ।

নবম পরিচ্ছেদঃ ।

১। ভ্রাতৃপুত্রস্যাভাবে ভ্রাতৃপৌত্রস্যাধিকারঃ ; ধনিভোগ্য-
পিণ্ডদাতৃত্বাৎ, সপিণ্ডত্বাচ্চ ।

২। ভ্রাতৃপৌত্রোক্তান্ত নাধিকারিণঃ ; ধনিপিতুঃ পঞ্চমতেন
উপকারকত্বাভাবাৎ ।

৩। অত্রাপি সৌদরবৈমাত্রেয়ভ্রাতৃপুত্রবৎ ক্রমোবোধ্যঃ ॥

দশম পরিচ্ছেদঃ ।

১। ভ্রাতৃপৌত্রস্যাভাবে পিতৃদৌহিত্রস্যাধিকারঃ ; ধনি
পিত্রাদিত্রয়পিণ্ডদাতৃত্বাৎ । অত্র সৌদরভগিনীপুত্রবৈমাত্রেয়
ভগিনীপুত্রয়োস্তল্যবদধিকারঃ ইত্য্যচার্য্যচূড়ামণিঃ ।

২। পিতৃদৌহিত্রাভাবে ভ্রাতৃদৌহিত্রোহধিকারী ; ধনিভোগ্য
পিতৃপিতামহপিণ্ডদাতৃত্বাৎ ।

৩। তদভাবে পিতামহাধিকারঃ, দৌহিত্রান্তস্বসন্তানাভাবে
পিতুরধিকারবৎ পিতৃদৌহিত্রান্তাভাবে পিতামহস্য, সাংদৃষ্টিক
ন্যায়সিদ্ধত্বাৎ, ধনিভোগ্যপ্রপিতামহপিণ্ডদাতৃত্বাচ্চ ।

৪। পিতামহাভাবে পিতামহ্যাধিকারঃ ; অপত্যস্য পুত্রস্য
মাতা দায়মবাপ্নুয়াৎ । মাতর্য্যপি চ বৃত্তায়াং পিতৃমাতা হরেন্ননং
ইতিমনুবচনাৎ । বথা পিতৃভাবে মাতা, তথাপিতামহাভাবেহপি



পিতামহীতি সাংদৃষ্টিকন্যায়েন পিতামহাৎ পরং পিতামহ-
ধিকারঃ ॥

৫। পিতামহ্যভাবে পিতৃব্যস্যাধিকারঃ ; ধনিভোগ্যপিতামহ-
প্রপিতামহপিণ্ডদাতৃত্বাৎ ।

৬। তদভাবে পিতৃব্যপুত্রস্যাধিকারঃ, তস্যাপি ধনিপিতামহ-
প্রপিতামহপিণ্ডদাতৃত্বাৎ ।

৭। তদভাবে পিতৃব্যপৌত্রস্যাধিকারঃ, তস্যাপি ধনিভোগ্য
পিতামহপিণ্ডদাতৃত্বাৎ ।

৮। পিতৃব্যপৌত্র্যভাবে পিতামহদৌহিত্রস্যাধিকারঃ,
ধনিভোগ্যপিতামহপ্রপিতামহপিণ্ডদাতৃত্বাৎ, যদ্যপি ধনিভোগ্য
পিণ্ডদ্বয়দাতৃত্বেন ধনিভোগ্যৈকপিণ্ডদাতুঃ পিতৃব্যপৌত্র্যৎ
উপকারাধিক্যং তথাপি পিতৃব্যপৌত্রস্যাধিকারঃ, নপিণ্ডত্বেন
বলবত্ত্বাৎ ।

৯। পিতামহদৌহিত্রস্যাভবেপিতৃব্যদৌহিত্রস্যাধিকারঃ, ধনি-
ভোগ্যতৎপিতামহপ্রপিতামহপিণ্ডদ্বয়দাতৃত্বাৎ ।

১০। ততঃপ্রপিতামহপ্রপিতামহোঃ ক্রমেণাধিকারঃ, প্রপিতা-
মহপিণ্ডস্য ধনিভোগ্যত্বাৎ পূর্বোক্তসাংদৃষ্টিকন্যায়সিদ্ধত্বাচ্চ ।

১১। ততঃ পিতামহভ্রাতা অধিকারী, তদভাবে পিতামহভ্রাতৃ-
পুত্রঃ, তদভাবে পিতামহভ্রাতৃপৌত্রঃ, তেষাং ধনিভোগ্য তৎ
প্রপিতামহপিণ্ডদাতৃত্বাৎ ।

১২। ততঃ প্রপিতামহদৌহিত্রোহধিকারী, ধনিভোগ্যপ্রপিতা-
মহপিণ্ডদাতৃত্বাৎ ।

১৩। ততঃ পিতামহভ্রাতৃদৌহিত্রোহধিকারী, ধনিভোগ্য-
প্রপিতামহপিণ্ডদাতৃত্বাৎ ।

১৪। তদভাবে মাতামহঃ ।

১৫। তদভাবে মাতুলঃ, তদভাবে মাতুলপুত্রঃ, তদভাবে
মাতুলপৌত্রঃ । মনুনা ত্রয়াণামুদকং কার্যং ত্রিষু পিণ্ডঃ
প্রবর্ততে । অনন্তরঃ সপিণ্ডদ্যস্তস্য তস্য ধনং ভবেৎ ।
ইত্যাত্মাং বচনাভ্যাং উপকারানন্তর্য্যক্রমেণ ধনাধিকার-
প্রতিপাদকাত্মাং তেষামধিকারপ্রতিপাদনাৎ ; এতয়োর্দায়-
ভাগপ্রকরণে কখনম্যোপকারক্রমেণ ধনাধিকারজ্ঞাপনৈক
প্রয়োজনকত্বাৎ অন্যথা দায়ভাগপ্রকরণে তত্পাদানবৈয়র্থ্যং ।

১৬। তদভাবে মাতামহদৌহিত্রোহধিকারী ।

১৭। তদভাবে প্রমাতামহঃ, তদভাবে প্রমাতামহপুত্রঃ,
তদভাবে প্রমাতামহপৌত্রঃ, তদভাবে প্রমাতামহপ্রপৌত্রঃ ।

১৮। তদভাবে প্রমাতামহদৌহিত্রোহধিকারী ।

১৯। তদভাবে বৃদ্ধপ্রমাতামহোহধিকারী, তদভাবে বৃদ্ধ-
প্রমাতামহপুত্রঃ, তদভাবে বৃদ্ধপ্রমাতামহপৌত্রঃ, তদভাবে
বৃদ্ধপ্রমাতামহপ্রপৌত্রঃ ।

২০। তদভাবে বৃদ্ধপ্রমাতামহদৌহিত্রোহধিকারী ।

২১। মৃতধনিভোগ্যপিণ্ডদাতৃত্বাবে সকুল্যোহধিকারী ।
তদভাবে সকুল্যঃ স্যাদাচার্য্যঃ শিষ্যএববেতি মনুবচনাৎ ।

২২। সকুল্যোদ্বিবিধঃ, অধস্তনউর্দ্ধতনশ্চ ।

২৩। অত্র প্রপৌত্রপুত্রাবধয়োহধস্তনাস্ত্রয়ঃ, বৃদ্ধপ্রপিতা-
মহাদিত্রয়ঃ পূর্বৈ উদ্ধৃতনাঃ ।

২৪। তত্রাপ্যাদাবধস্তনানাং সকুল্যানাং ক্রমেণাধিকারঃ,
তেষাং মৃতভোগ্যপিণ্ডলেপদাতৃত্বাৎ ।

২৫। তেষামভাবে উদ্ধৃতনানাং ত্রয়াণাং ক্রমেণাধিকারঃ
বৃদ্ধপ্রপিতামহাদিত্রয়পিণ্ডলেপস্য ধনিভোগ্যত্বাৎ তৎসন্ততী-
নাঞ্চ ধনিদেয়পিণ্ডলেপভূগ্ভ্যোবৃদ্ধপ্রপিতামহাদিত্যঃ পিণ্ডদাতৃ-
ত্বাৎ । বহুবোজ্ঞাতযোগত্ৰ সকুল্যা বান্ধবাস্তথা । যোহ্য
সম্নতরস্তেষাং সোহনপত্যধনং হরেদিতি বৃহস্পতিবচনাৎ ।
আসম্নতরত্বঞ্চ উপকারতারতম্যেন পূর্বোক্তবচনাভ্যামেক
বাক্যত্বাৎ ।

২৬। এবশ্লিষসকুল্যাভাবে সমানোদকাঃ সকুল্যপদেনো-
পাত্তা মন্তব্যাঃ ।

২৭। তদভাবে আচার্য্যঃ ।

২৮। তদভাবে শিষ্যঃ, আচার্য্যঃ শিষ্যএবেতি মনুনা
ক্রমেণ তয়োরধিকারপ্রতিপাদনাৎ । উপনীয় দদদ্বৈদমাচার্য্যঃ
স উদাহৃতইত্যনেনোক্তঃ ।

২৯। তদভাবে সহবেদাধ্যায়িসত্ৰক্ষচারিণঃ, শিষ্যঃ সত্ৰক্ষ-
চারিণ ইতি বাজ্রবল্ক্যবচনাৎ ।

৩০। তদভাবে স্বগ্রামস্থাঃ সগোত্রজাঃ ।

৩১। তদভাবে তথাবিধাঃ সমানপ্রবরাঃ পিণ্ডগোত্রি-
সম্বন্ধা ঋক্ং হরেয়ু রিতি গোতমবচনাৎ ।

৩২ । উক্তপর্যন্তভাবে তন্মামশ্বাঃ ত্রৈবিদ্যাদিগুণযুক্তাঃ
ব্রাহ্মণা অধিকারিণঃ । সর্বেষামপ্যভাবে তু ব্রাহ্মণা ধনহারিণঃ ।
ত্রৈবিদ্যাঃ শুচয়োদান্তাঃ এবং ধর্মো ন হীয়তে ইতিমনুবচনাৎ ।

৩৩ । এতেষামভাবে ব্রাহ্মণধনবর্জং রাজগামীতি । তথা-
মনুঃ । অহাৰ্য্যং ব্রাহ্মণধনং রাজ্ঞা নিত্যমিতি স্থিতিঃ । ইত্যে-
যান্ত বর্ণানাং সৰ্ব্বাভাবে হরেম্ পইতি ।

৩৪ । ব্রাহ্মণধনস্য তু গুণবদ্রাহ্মণপর্যন্তভাবে ব্রাহ্মণস্য
গ্রামান্তরস্থস্যাপি অধিকারো নতু রাজ্ঞ ইত্যবধেয়ং ।

৩৫ । বানপ্রস্থযতিব্রহ্মচারিণাং ধনং ধর্মভ্রাতৃসচ্ছিয়া-
চার্য্যাঃ গৃহীযুঃ ।

৩৬ । তদভাবে চৈকত্রবাসী একাশ্রমী বা গৃহীয়াৎ ।
তথাচ যাজ্ঞবল্ক্যঃ । বানপ্রস্থযতিব্রহ্মচারিণাং ধনহারিণঃ ।
ক্রমেণাচার্য্যসচ্ছিয়াধর্মভ্রাত্রেকতীর্থিনঃ । ক্রমেণ প্রতিলো-
মেন; তেন ব্রহ্মচারিণোধনে আচার্য্যঃ, যতের্ধনে সচ্ছিয়াঃ, বান-
প্রস্থধনে একতীর্থবাসিরূপ একাশ্রমনিবাসিরূপো বা ধর্মভ্রাতা-
হধিকারীত্যর্থঃ ।

৩৭ । ব্রহ্মচারী চ দ্বিবিধঃ, নৈষ্ঠিক উপকূর্বাণশ্চ । তত্র
নৈষ্ঠিকধনে আচার্য্যস্যাদিকারঃ পিত্রাদিপরিত্যাগেন যাব-
জ্জীবমাচার্য্যকুলবাসনিষ্ঠায়াঃ কৃতত্বাৎ । উপকূর্বাণস্য তু
ধনং পিত্রাদিভিরেব গ্রাহ্যং; তস্য পাঠার্থমেবাচার্য্যনিকট-
গততয়া তাদৃশবিরহাদিতি দায়ভাগঃ । ইতি পুংধনাধি-
কারিণঃ ।

দ্বিতীয়োহধ্যায়ঃ ।

—০৩০০—

প্রথমপরিচ্ছেদঃ ।

১। অথ স্ত্রীধনাধিকারিক্রমঃ । তত্র কুমারীধনে প্রথমং সোদরভ্রাতাধিকারী, তদভাবে মাতা, তদভাবে পিতা । স্বকৃৎ মৃত্যাঃ কন্যায়াগৃহীযুঃ সোদরাঃ স্বয়ং । তদভাবে ভবেন্মাতু-
স্তদভাবে ভবেৎ পিতুরিতি নারদীয়াৎ ।

২। এতচ্চ কন্যায়া বরদভ্রাতারিক্তবিষয়ং । বরদভ্রতেন বরোহধিকারী । স্বকৃৎ শুক্লং বরো গৃহীয়াৎ ইতি পৈঠীনসি-
বচনাৎ । অথাগচ্ছেৎ সমুঢ়ায়াং দত্তং পূর্ববরোহরেৎ । মৃত্যাং পুনরাদদ্যাৎ পরিশুদ্ধোভয়ব্যয়ং ইতি নারদীয়াচ্চ ।

দ্বিতীয়পরিচ্ছেদঃ ।

১। অথোঢ়াস্ত্রীধনাধিকারিক্রমনিরূপণার্থং তদ্ধনং নিরূ-
প্যতে । তত্র নারদঃ । অধ্যগ্ন্যুধ্যাবাহনিকং ভর্তৃদায়স্তথৈবচ ।
ভ্রাতৃদত্তং পিতৃভ্রাতৃকং ষড়্ বিধং স্ত্রীধনং স্মৃতং ।

২। অত্র ষট্ সংখ্যা ন বিবক্ষিতা, স্ত্রীধনস্য বহুবিধস্য বক্ষ্য-
মাণত্বাৎ । অধ্যগ্নিধনমাহ কাত্যায়নঃ । বিবাহকালে যৎ
স্ত্রীভ্যোদীয়তে হ্যগ্নিসন্নিধৌ । তদধ্যগ্নিকৃতং সন্তিঃ স্ত্রীধনং
পারিকীর্তিতং ।

৩। বিবাহকালশ্চ বৃদ্ধিশ্রাদ্ধাদিপত্যভিবাদনান্তঃ কালঃ ।

৪। তৎকাললক্ষ্মণমেব ধনং যৌতুকং যু মিশ্রণে ইতি ধাত্বনুসারাৎ । মিশ্রতা চ স্ত্রীপুংসয়োরেকশরীররূপতা যতো-
বিবাহাদ্ভবতি । তথাচ শ্রুতিঃ । অস্থিভিরস্থীনি মাংসৈর্মাংসং
তুচা তুচমিতি ।

৫। তথাচ ব্যাসঃ । বিবাহকালে যৎকিঞ্চিদ্বরায়াদিশ্য
দীয়তে । কন্যায়াস্তদ্বনং সর্বমবিভাজ্যঞ্চ বন্ধুভিঃ ।

৬। উদ্দিশ্য কন্যায়াইদং ভবত্বিত্ত্বাদিশ্য বরায় দীয়তে,
বরহস্তে সমর্প্যতে ; নত্বেতদভিসন্ধিং বিনাপীত্যাৰ্থঃ ।

৭। তেন পূর্ববচনে অগ্নিসম্মিধাবিতি অত্র বচনে বিবাহকালে
ইতিদ্বয়মপুপলক্ষণং । যদা কদাচিদেব কন্যামুদ্দিশ্য বরহস্তসম-
র্পিতস্যৈব কন্যাধনত্বাৎ অভিসন্ধিমূলত্বাদেবস্বামিত্বস্য । অতএব
বরায়েতুপলক্ষণং অন্যহস্তসমর্পণেহপি তাদৃশাভিসন্ধিসত্ত্বে
কন্যায়াএব তদ্বনমিতি ।

৮। অধ্যাবাহনিকমাহ কাত্যায়নঃ । যৎপুনর্লভতে নারী-
নীয়মানা হি পৈতৃকাৎ । অধ্যাবাহনিকং নাম স্ত্রীধনং পরিকীর্তিতং ।

৯। পৈতৃকাদিত্যেকশেষঃ, তেন ভর্তৃগৃহং নীয়মানা পিতৃ-
মাতৃকূলাদ্ধনং লভতে তদধ্যাবাহনিকমিত্যাৰ্থঃ ।

১০। ভর্তৃদায়োভর্তৃদত্তধনং । ভর্তৃদায়ং যুতে পত্যো
বিন্যসেৎ স্ত্রী যথেষ্টতঃ । বিদ্যमानে তু সংরক্ষেৎ ক্ষপয়েত্তৎ-
কুলেহন্যথা ইতিবচনান্তরে কাত্যায়নেনৈব দায়পদস্য দত্তে প্রযু-
ক্তত্বাৎ ।

১১। নচাত্র দায়পদং সংক্রান্তধনপরমেবেতি বাচ্যং বিদ্য-

মানেন তু সংরক্ষেদিত্যন্তরাঙ্গীসঙ্গতেঃ , পত্যো জীবতি স্ত্রীসং-
ক্রান্তভর্তৃদায়াপ্রসক্তেঃ ।

১২ । ন তু যুতভর্তৃসংক্রান্তধনপরং ভর্তৃদায়পদং স্ত্রীধন-
প্রকরণাখ্যানাৎ, সংক্রান্তধনস্য তু স্ত্রীধনহাভাবাৎ, তথাত্ত্বৈ দদা
তৈর্গৌণহাপত্তেষ্চ ।

১৩ । ক্ষপয়েৎ, স্থাপয়েৎ; তৎকূলে, ভর্তৃকূলে দেবরাদৌ ।

১৪ । অন্যথা, স্বয়ং রক্ষণাসামর্থ্যে ; যথা যাজ্ঞবল্ক্যঃ । পিতৃমাতৃ-
পতিভ্রাতৃদত্তমধ্যগ্ন্যুপাগতং । আধিবেদনিকশৈব স্ত্রীধনং পরি-
কীৰ্ত্তিতং ।

১৫ । দ্বিতীয়বিবাহার্থিনা পূর্বস্ত্রিয়ৈ পারিতোষিকং যন্ধনং
দত্তং তদাধিবেদনিকং অধিকস্ত্রীলাভার্থহাভস্য ।

১৬ । তথা দেবলঃ । বৃত্তিরাভরণং শুভ্রং লাভশ্চ স্ত্রীধনং-
বিহুঃ । ভোক্ত্রী তৎ স্বয়মেবেদং পতিনীহঁত্যানাপি । বৃত্তিমা-
চ্ছাদনং ।

১৭ । শুক্লাহ কাত্যায়নঃ । গৃহোপস্করবাহ্যানাং দোহ্যভ-
রণকর্শ্মিণাং । মূল্যং লব্ধস্ত যৎ কিঞ্চিৎ শুক্লং তৎ পরিকীৰ্ত্তিতং ।
স্ত্রিয়া গৃহাদিকর্শ্মিরূপশিল্লিস্বভর্তৃরারোণ্যেমাং গৃহাদিকর্শ্মনিপা-
দনাৎ উৎকোচবিধয়া অন্যোভ্যোযন্ধনং গৃহীতং তচ্ছুক্লং তদেব
মূল্যং ভর্তৃপ্রেরণার্থত্বাৎ ।

১৮ । উপস্করোমাজ্জনী, বাহ্যা বলীবর্দাদয়ঃ, দোহ্যা-
ধনবঃ, লাভোনিধ্যাদেঃ ।

১৯ । তথাচ বিষ্ণুঃ । পিতৃমাতৃভ্রাতৃভ্রাতৃদত্তমধ্যগ্ন্যুপাগতং

আধিবেদনিকং বন্ধুদত্তং শুদ্ধাধাধেয়কমিতি স্ত্রীধনং । বন্ধুপদেন
মাতুলানুপলক্ষণং ।

২০ । অধাধেয়কমাহ দেবলঃ । বিবাহাৎ পরতোযত্নু লক্ষণং
ভর্তৃকুলাৎ স্ত্রিয়া । অধাধেয়ং তদুত্তরং লক্ষণং বন্ধুকুলাভায়া ।
উক্তং লক্ষণং যৎকিঞ্চিৎ সংস্কারাৎ প্রীতিতঃ স্ত্রিয়া । ভর্তৃঃসকাশাৎ
পিত্রোৰ্বা অধাধেয়ন্ত তদুত্তরং ।

২১ । বন্ধুকুলাদিত্যত্র বন্ধুপদেন মাতাপিত্রোরপলক্ষণং ।

২২ । তেন ভর্তৃদ্বারেণ সম্বন্ধিনাং শ্বশুরাদীনাং মাতাপিতৃ-
দ্বারেণ সম্বন্ধিনাং মাতামহপিতামহাদীনাঞ্চ সকাশাৎ বিবাহাৎ
পরতোযত্নরূপং তদধাধেয়কমিতি প্রথমবচনস্যার্থঃ । বিবাহাৎ
পরতোভর্তৃঃ পিত্রোৰ্বা সকাশাৎ যত্নং লক্ষণং তদধাধেয়কমিতি
দ্বিতীয়বচনস্যার্থঃ ।

২৩ । তদেবং নানামুনিভিনানাধিধ স্ত্রীধনকীর্তনাৎ
নারদবচনে ঘটসংখ্যা নাদৃতা, কিন্তু স্ত্রীধনপরাণ্যেব বচনানি ।

২৪ । সংক্ষেপতস্ত তদেব ধনং স্ত্রীধনং যত্নেন ভর্তৃতঃ স্বা-
তন্ত্র্যেণ স্ত্রিয়াযথেক্ষেত্রেবিনিয়োগাহঁত্বং শাস্ত্রবোধিতং ভবতি । তচ্চ-
শাস্ত্রং কাত্যায়নঃ ।

২৫ । প্রাপ্তং শিল্পৈস্ত যদ্বিতং প্রীত্যাচৈব যদন্যতঃ । ভর্তৃঃ
স্বাম্যং ভবেত্তত্র শেষস্ত স্ত্রীধনং স্মৃতং ।

২৬ । উচ্যে কনয়া বাপি পত্ন্যঃ পিতৃগৃহেহথবা । ভর্তৃঃ-
সকাশাৎপিত্রোৰ্বা লক্ষণং সৌদায়িকং স্মৃতং । সৌদায়িকং ধনং
প্রাপ্য স্ত্রীণাং স্বাতন্ত্র্যমিন্যতে । যস্মান্ভদানুশংস্যাৰ্থং তৈর্দত্তং

তৎপ্রজীবনং । সৌদায়িকেসদা স্ত্রীণাং স্বাতন্ত্র্যং পরিকীর্তিতং ।
বিক্রয়ে চৈব দানে চ যথেষ্টং স্বাবরেষপি ।

২৭ । শেষপদার্থং বিবৃণোতি উচ্যেত্যাदि ।

২৮ । অন্যতঃ ভর্তৃমাতৃপিতৃকুলব্যতিরিক্তাং যল্লকং শিল্পেন
চিত্রকৰ্ম্মসূত্রকুৰ্দনাদিনা চ যদজিতং তত্র ভর্তুঃ স্বাতন্ত্র্যং ; অনা-
পদ্যপি ভৰ্ত্তা গ্রহীতুমহঁতি ।

২৯ । তেন তদুভয়ধনস্য স্ত্রীস্বামিকধনত্বেহপি ন তস্যাঃ স্বা-
তন্ত্র্যবিষয়ঃ কিন্তু বচনবলাৎ ভর্তুরেব স্বাতন্ত্র্যবিষয়ঃ, তথা চ
স্ত্রিয়া তদ্ধননিয়োগে ভত্ৰনুমত্যপেক্ষেতি ।

৩০ । স্ত্রীধনং স্মৃতমিতি স্ত্রিয়া যথেষ্টবিনিয়োগাহং স্মৃতং ।
উচ্যেতি উচ্য পত্ন্যঃ কুলাৎ পিত্রোৰ্কা কুলাৎ, কন্যায়া চ
পিত্রোঃ কুলাৎ যল্লকং তৎ সৌদায়িকমিত্যর্থঃ । আনৃশংস্য-
মনুকম্পা ।

৩১ । স্বাবরেষপীতি ভর্তৃদত্তস্বাবরাতিরিক্তস্বাবরপরং
ভর্তৃদত্তস্বাবরে স্ত্রিয়া দানবিক্রয়নিষেধাৎ । তথাচ নারদঃ । ভত্ৰা
গ্রীতেন যদদত্তং স্ত্রিয়ৈ তস্মিন্মতেহপি তৎ । সা যথাকামমগ্নী-
য়াৎ দদ্যদ্বা স্বাবরাদৃতে ।

৩২ । ইত্যত্র ভর্তৃদত্তেতি বিশেষণাৎ পূৰ্ব্বোক্তকাত্যায়ন-
সামান্যবচনং ভর্তৃদত্তস্বাবরাতিরিক্তস্বাবরপরং সামান্যবিশে-
ষন্যায়াৎ ।

৩৩ । ভৰ্ত্তা তু দুৰ্ভিক্ষাদৌ যদা স্ত্রীধনং বিনা বৰ্ত্তনাক্ষমঃ
তদা সৌদায়িকমপি স্ত্রীধনং গ্রহীতুমহঁতি । তদাহ যাজ্ঞবল্ক্যঃ ।

ছুভিক্ষে ধর্মকাষ্যে চ ব্যাধৌ সম্প্রতিবোধকে ।
 ভর্তা নাকামোদীতুমহতি ।

৩৪। সম্প্রতি রোধকে উত্তমর্ণাদিনা স্বধনপ্রাপ্তকৃত্তে
মানুভোজনাদিপ্রতিরোধে। উক্তে স্ত্রীধনে দুর্ভিকাদ্যাপদং
বিনাঙ্গধিকারাব্যবহা কাত্যায়নঃ।

৩৫। ন ভর্ত্তা নৈব চ স্ততোন পিতা ভ্রাতৃশ্চ। আদানে
বা বিসর্গে বা স্ত্রীধনে প্রভবিষ্ণবঃ। হ্যেকতরোহ্মীষ
নং ভক্ষয়েৎলাং। সবুদ্ধিং প্রতিদাপ্যঃ স্যাৎ দণ্ডকৈব স-
প্তিযাৎ। অহং মজ্জাপ্য ভক্ষয়েৎ প্রীতিপূর্বকং। মূলমৈব
দাপ্যঃ সৎসং ধনবান্ ভবেৎ। অথ চেৎ স দ্বিভার্য্যঃ
সং তং ভক্ষয়েৎ সঃ। প্রীত্য বিষ্টমপি তং প্রতিদাপ্যঃ
স্যাৎ। গ্রাসাচ্ছাদনবাসানামুচ্ছেদোযত্র যোষিতাং।
বদদৌত স্ত্রীভাগং শ্বক থিনস্তথা।

২। সর্বক্রিমিতি বলাদগৃহীতস্ত্রীধনরূপগ্নিমিতি শেষঃ ।
ন স্ত্রীধনবিশেষণং, সর্বক্রিমিতি ক্রিমিশেষণত্বে সর্বক্রীত্বো
প্যাদিতি ।

৩৭। মূলমেবেতে্যবকারেণ বুদ্ধিব্যবচ্ছেদঃ।

७८ । अथ कदिति, स्त्रिया धनं गृहीतं प्रभृत्याः प्रभृत्याः
मह वसति तांशवजानीते प्रीत्या गृहीतं स्त्रीधनं राज्ञा
बलादप्य इत्यर्थः ।

৩৯। গ্রাসাচ্ছাদনেতি, জীবনোপায়িকমলবস্ত্রাদি যদিভর্তা-

দদাতি স্বয়ং নিদোষা তদা স্বয়মাকুষ্য স্ত্রিয়া তদগ্রাহ-
মিত্যর্থঃ ।

৪০ । বাসোনিবাসগৃহং ।

৪১ । বিভাগমিতি, ভর্তরি মৃতে তৎপ্রাপ্তিযোগ্যাংশং
স্বক্খিনোঃ সকাশাদাদদীতেত্যর্থঃ, ইত্যন্ত কিং
বিস্তরেণ । অভিধীয়তে ।

হৃতীয়পরিচ্ছেদঃ ।

১। তদেবং স্ত্রীধনে নিরূপিতে তস্য যুগ্মাং তৎ
ধিকারো নিরূপ্যতে ।

২। তত্র যৌতুকধনে প্রথমং কুমারীস্বত্বধিকারঃ । য-
যৌতুকং যৎ স্যাৎ কুমারীভাগএব স ইতি মনুবচনাৎ ।

৩। তদভাবে বাগদভায়াঃ, তদভায়ে চোঢ়ায়াঃ পু-
সম্ভাবিতপুত্রায়াশ্চ যুগপদধিকারঃ ।

৪। স্ত্রীধনং দুহিতৃণামপ্রভানামপ্রতিষ্ঠিতামি-
গৌতমবচনাৎ ।

৫। অত্র দুহিতৃণামিতি সামান্যতঃ সর্বদুহিতৃণামধিক-
প্রাপ্তৌ স্প্রভানামিত্যাদেঃ ক্রমার্থত্বেনৈব সার্থকতয়া প্র-
মপ্রভাকুমারী, ততোহপ্রতিষ্ঠিতা বাগদভাঃ তদভাবে
রুঢ়া পূর্বোক্তাঃ তদভাবে বক্ষ্যাবিধবয়োরপি তুল্যবদধি-
ইতি বচনার্থঃ ।

৬। অত্র কুমারী বাগদভা বা জাতাধিকার অনন্তরং প

নীতা সতী পশ্চাদ্ধন্যাহেনাবধূতা পুত্রমমুৎপাদ্যৈব বা বিধবা
তদা তস্যাং যুতায়াং তৎসংক্রান্তমাতৃধনে তদ্ভগিন্যোঃ
পুত্রবতীসম্ভাবিতপুত্রয়োঃ, তয়োৰভাবে বন্ধ্যাবিধবয়োৰপ্যাধি-
কারঃ, ন তু তদ্ভৰ্ত্তুঃ, ভৰ্ত্ত্বাধিকারস্য স্ত্রীধনবিষয়ত্বাৎ অস্যা চ
সংক্রান্তধনহেন স্ত্রীধনহাবাদাদিতি বোধ্যঃ ।

৭। বন্ধ্যাবিধবয়োঃ সাক্ষাৎ পুত্রবরেণ্যত্বাভাবেহপূ-
চান্চাসামান্যাধিকারপ্রতিপাদকগোতরভেদবোধিকারঃ ।

৮। সৰ্বদুহিত্রভাবে পুত্রস্যাধিকারঃ । মাতৃদুহিতরঃ
শ্রময়ুগান্তাভ্যন্তরেহমুয় ইতিযাজ্ঞবল্কীয়েন দুহিত্রভাবেহমুয়-
পদেন পুত্রাধিকারপ্রতিপাদনাৎ সৰ্বাপেক্ষয়া তসৌবোপ-
সংসারতিশয়াচ্চ তৎসমাজেষু তদানামী হ্যর্থোভবতীতিবোধায়ন-
ক ।

৯। পুত্রাভাবে দৌহিত্রোধিকারী, পুত্রাধিকারাংপ্রাক্
দুহিত্রাধিকারশ্রুতে, তদ্বাধিকারাদুহিতুঃ পুত্রোণ বাধ্যপুত্রবাধ-
ন্যৈব ন্যায্যত্বাৎ ।

১০। দৌহিত্রাভাবে পৌত্রঃ, তদভাবে প্রপৌত্রঃ, উপ-
কারতারতম্যাৎ ।

১১। তদভাবে সপত্নীপুত্রঃ ; মাতৃসমাঙ্গতুলানী পিতৃবস্ত্রী
পিতৃসমা । শব্দঃ পূৰ্ব্বজপত্নী চ মাতৃতুল্যাঃ প্রকীৰ্ত্তিতাঃ । যদা-
সামৌরসো ন স্যাৎ স্ততোদৌহিত্রএব বস্তুতঃ স্ততোবা ধনং
তাসাং স্বস্রীয়াদ্যাঃ সমাপ্নুয়ুরিতিরহম্পতিবচনে স্ততপদেন
সপত্নীপুত্রস্যাধিকারপ্রতিপাদনাৎ ।

১২। অন্যথা স্ত্রুতপদস্যোরসবিশেষণত্বে বৈয়র্থ্যাৎ
সপত্নীপুত্রসত্ত্বে দেবরসধিকারাপত্তেশ্চ।

১৩। তদভাবে সপত্নীপৌত্রঃ, তদভাবে সপত্নীপ্রপৌত্রঃ,
তয়োঃ স্বভোগ্যস্বভর্তৃপিণ্ডদাতৃত্বাৎ।

১৪। এতদভাবে ব্রাহ্মদৈবার্ঘগাক্ষর্বপ্রাজাপত্যাত্ম-
বিবাহপঞ্চকৃত্যতুকধনে ভর্তৃরধিকারঃ। ব্রাহ্মদৈবার্ঘগাক্ষর্ব-
প্রাজাপত্যেষু যদ্বন্যতীতায়ামপ্রজায়াং ভর্তুরেব তদিস্যতে
ইতি মনুবচনাৎ।

১৫। ভর্তুরভাবে ভ্রাতৃঃ, বন্ধুদত্তং তথা শুক্রমস্বাধেয়ক-
মেব চ। অপ্রজায়ামতীতায়াম্ বান্ধবান্ধবাপুয়ুরিতিযজ্ঞ-
বক্ষ্যবচনাৎ।

১৬। অত্র বন্ধুপদেন মাতাপিত্রোরুপাদানং।
বান্ধবান্ধবাতরঃ। পিতৃভ্যাক্ষেব যদত্তং তদ্বিত্তং স্বাবরং ধনং
অপ্রজায়ামতীতায়াম্ ভ্রাতৃগামি তু সর্বদা ইতিকাत्याয়নবচনৈক-
বাক্যত্বাৎ। অত্র স্বাবরগ্রহণাৎ দণ্ডাপূর্ণন্যাদপরধনস্যাপি
লাভ ইতি দায়ভাগঃ। সর্বদাপদেন ব্রাহ্মাদ্যষ্টবিধবিবাহপরি-
গ্রহঃ।

১৭। শুক্রং প্রাগেবাভিহিতং, অস্বাধেয়কমপি। তদভা-
মাতাধিকারিণী, তাবে পিতা। ভগিনীশুক্রং সোদর্য্যাণাং
উদ্ধঃ মাতুঃ পিতুঃ পূর্বকৈকে ইতি কাत्याয়নবচনাৎ।

১৮। ভগিনীশুক্রং ভগিনীধনং প্রথমং সোদর্য্যাণাং তেষা

মভাবে মাতুঃ তদভাবে পিতুঃ । পূর্বক্কেইতি পরমতং । এতৎ
ন্যতে প্রথমং পিতুঃ, ততোমাতুরিত্যর্থঃ ।

১৯। সপত্নীপ্রপৌত্রপর্যাস্তাভাবে পৈশাচরাক্ষমাহুরাখ্য-
বিবাহত্রিকলকর্যৌতুকধনে প্রথমং মাতুরধিকারঃ, এতদভাবে
পিতুঃ । যদ্বস্যঃ স্যাক্ননং দত্তং বিবাহেষ্টাভ্যামুদিতু । অপ্র-
জায়ামতীত্যাং মাতাপিত্রৌস্তদিত্যত ইতি চিন্ত্যং ।

২০। অত্র মাতাপিত্রোরিত্যেনে ক্রমঃ ক্রমপ্রতিপাদ-
নাং । যুগপদধিকারে পিত্রোরিত্যেব ক্রিয়াং ।

২১। পিতুরভাবে ভ্রাতুঃ, ভ্রাতুরভাবে ভর্তৃঃ । বন্ধুদত্ত-
বন্ধুনামভাবে ভর্তৃগুমি তদিতিকাত্যায়নীয়াং ।

২২। বন্ধুরাতাপিতা চ । বন্ধুনামভাবে ইত্যেনে ভ্রাতু-
ইত্যপি সূচিৎ ভ্রাতুরভাবএব পিত্রোরধিকারাং ।

—০ঃ০ঃ—

চতুর্থপরিচ্ছেদঃ ।

১। এতৎপর্যাস্তাভাবে তু যৌতুকায়ৌতুকসাধারণক্রমো-
হগ্রে বক্ষ্যতে । অথায়ৌতুকস্ত্রীধনাধিকারক্রমঃ ।

২। অত্র বিবাহতৎপূর্বপরিকালপিতৃদত্তায়ৌতুকাভ্যামতি-
রিক্তস্ত্রীধনে কন্যাপুত্রয়োঃ যুগপদধিকারঃ ।

৩। সামান্যং পুত্রকন্যানাং মৃত্যাং স্ত্রীধনং স্ত্রিয়াং ।
অপ্রজয়াং হরেদত্তা মাতা ভ্রাতা পিতা ইতি বেতিদেবলবচন-
পূর্বাক্ষাং ।

৪। অত্র পুত্রকন্যানামিতি দ্বন্দ্বনির্দেশাং সামান্যং সাধা-

মিত্যুক্তেশ্চ কন্যাপুত্রয়োৰ্গুণপদধিকারসিদ্ধিঃ । তয়োরেক-
তরাভাবেহন্যতরস্য তদনং ।

৫। দয়োরেব তয়োৰতাবে তুঢ়ায়াঃ পুত্রবত্যাঃ সম্ভাবিত-
পুত্রায়াশ্চ তুল্যবদধিকারঃ । পুত্রাভাবে তু ছহিতা তুল্যসন্তান
দর্শনাদিত্তি ———— স্বপুত্রদ্বারেণ পার্ৰ্বণে তদ্যোগ্য-
পতিপিণ্ডদা ———— ।

৬। এতয়োরেকতরাভাবে অন্যতরস্যঃ । এতয়োৰয়ো-
রতাবে পৌত্রঃ, পার্ৰ্বণে তদ্যোগ্যপতিপিণ্ডদাতৃত্বাৎ ।

৭। পৌত্রাভাবে তু দৌহিত্রঃ, পুত্রসোঢ়াবাধকতয়া বাধক-
পুত্রেণ বাধ্যাপুত্রবাধস্য ন্যায্যত্বাৎ দৌহিত্রোহপি হ্যমুত্রেণ
সন্তারয়তি পৌত্রবদিতিমনুবচনাচ্চ দৌহিত্রাধিকারপ্রতিপাদ-
নাৎ ।

৮। পৌত্রবদিত্যনেনাসতি বাধকে পৌত্রানন্তরং
ত্রাধিকারসিদ্ধেশ্চ ।

৯। তদভাবে প্রপৌত্রঃ, তদভাবে সপত্নীপুত্রঃ, তদভাবে
সপত্নীপৌত্রঃ তদভাবে সপত্নীপ্রপৌত্রোহধিকারী । এতেমাং
তদ্যোগ্যপতিপিণ্ডদাতৃত্বাৎ ।

১০। ততোবক্ষ্যা বিধবা চ তুল্যবদধিকারিণ্যৌ তয়োৰপি
তৎপ্রজাভাৎ । প্রজাসামান্যভাবেব ভৰ্ত্তৃরধিকারাৎ । অপ্রজা-
স্ত্রীধনং ভৰ্ত্তৃত্রৈব চতুষ্পিণ্ডিতিমনুক্তেঃ ।

১১। এতয়োরেকতরাভাবে চান্যতরস্যঃ । বক্ষ্যাবিধবা-
পর্যস্তাভাবে যৌতুকধনবৎ ব্রাহ্মাদিবিবাহপঞ্চকবিবাহিতায়াঃ

ধনে ভর্তৃভ্রাতৃমাতৃপিতৃণাং আত্মরাদিত্রিকবিবাহিতাধনে ভ্রাতৃ-
মাতৃপিতৃভর্তৃণাং ক্রমেণাধিকারঃ সাংদৃষ্টিকন্যায়াং ।

১২ । এতৎপর্যন্তাভাবে তু ব্যবস্থা বক্ষ্যতে ।

পঞ্চমপরিচ্ছেদঃ ।

১ । বিবাহকালে তৎপূর্ব্বপরকালে বাস্তুস্ত্রিয়ে যদ্বনং
পিত্রা দত্তং তত্র তু ধনে প্রথমং কুমার্য্যাং ।

২ । তদনন্তরং উচ্যোঃ পুত্রবতীসম্ভাবিতপুত্রয়োঃ ।

৩ । তদনন্তরঞ্চ বক্ষ্যাবিধবয়োশ্চাধিকারঃ । সর্ব্বদুহিত্র-
ভাবে পুত্রাদেযৌতুকধনবৎ ক্রমেণাধিকারঃ । স্ত্রিয়াস্ত-
যদুবেদিতং পিত্রা দত্তং কথঞ্চন । ব্রাহ্মণী তদ্বরেণ কন্যা তদ-
ন্য বা ভবেদিতি মনুবচনাং ।

৪ । অত্র পিত্রা দত্তমিতিবিশেষণাং বিবাহসময়াদন্য-
ত্রাপি যৎ পিতৃদত্তং তৎ প্রথমং কন্যায়াং, তদনন্তরং তদপ-
ত্যস্য পুত্রস্যেত্যর্থঃ ।

৫ । ব্রাহ্মণীপদঞ্চানুবাদইতি দায়ভাগঃ ।

ষষ্ঠপরিচ্ছেদঃ ।

১ । ততোব্রাহ্মাদিবিবাহপঞ্চকলক্কেযৌতুকধনেষু পিতৃ-
পর্যন্তাভাবে আত্মরাদিবিবাহত্রিকলক্কেযৌতুকধনেষু ভর্তৃ-
পর্যন্তাভাবে অন্যেষু চ সর্ব্বেষু স্বীধনেষু দেবরাদেরধিকারঃ ।

২। তথা চ বৃহস্পতিঃ । মাতৃষমা মাতুলানী পিতৃব্যস্ত্রী
পিতৃষমা । স্বশ্রুঃ পুত্রপত্নী চ মাতৃতুল্যাঃ প্রকীৰ্ত্তিতাঃ ।
যদাসামৌরসোন স্যাৎ স্ততো দৌহিত্র এব বা । তৎ স্ততো বা
ধনং তাসাং স্বস্ত্রীয়াদ্যাঃ সমাপ্নুযুঃ ।

২। উপদং কন্যাপুত্রপরং নহৌরসবিশেষণং
বৈয়র্থ্যাৎ । পুত্রসত্ত্বে দেবরাদ্যধিকারাপত্তেষ্চ । তৎ-
তইত্যত্র তৎ পদে পুত্রসপত্নীপুত্রয়োৰুপাদানং, নতু কন্যা-
দৌহিত্রয়োৰপি কন্যাপুত্রস্য দৌহিত্রপদেনোপাত্তত্বাৎ ।
হিত্রপুত্রস্য তু পিণ্ডবহির্ভাবেনোপকারাভাবাৎ । বা শব্দেন
চ পুত্রসপত্নীপুত্রয়োঃ পুত্রাঃ সমুচ্চিভ্যাং । এতদ্বচনপাঠ-
ক্রমস্ত নাদরণীয়ঃ তদা সৰ্ব্বশেষে দেবরাদ্যধিকারাপত্তিঃ । ন চ
তৎ যুক্তং তদ্বচনোপাত্তসৰ্ব্বাপেক্ষয়া তস্মৈবাধিকো-
কত্বাৎ । ত্রয়াণামুদকং কার্য্যং ত্রিষুপিণ্ডঃ প্রবর্ততে ।
স্তরঃ সপিণ্ডাদৃশস্তস্য তস্য ধনং ভবেদিত্যভিভ্যাং দায়ভাগপ্রক-
রণোক্তমনুবচনাভ্যাং উপকারকত্বেনৈব ধনাধিকারপ্রতি-
পাদনাৎ । অন্যথা দায়ভাগপ্রকরণে তদভিধানবৈয়র্থ্যাপত্তিঃ ।
ইথঞ্চোপকারকত্বেনোপাত্তোপকারক্রমঃ । তথা চ পাঠক্রমা-
দ্বলবর্থক্রম এবাদরণীয়ঃ ।

৩। তেন প্রথমং দেবরস্যাধিকারঃ তৎপিণ্ডতত্ত্বত্বপিতৃ-
তত্ত্বত্বদেয়পুরুষত্রয়পিণ্ডদাতৃত্বাৎ সপিণ্ডত্বাচ্চ ।

৪। তদভাবে দেবরভ্রাতৃশুশুরয়োঃ স্ততানাং যুগপদধিকারঃ ।
তৎপিণ্ডতত্ত্বত্বপিণ্ডতত্ত্বত্বদেয়পুরুষত্রয়পিণ্ডদাতৃত্বাৎ সপিণ্ড-

হ্রাস্ত ।

৫ । তেষামভাবেহসপিণ্ডোহপি ভগিনীপুত্রঃ, তৎপিণ্ড-
তৎপুত্রদেয়তৎপিত্রাদিত্রয়পিণ্ডদাতৃহ্রাৎ ।

৬ । তদভাবে ভৰ্তৃভাগিনেয়ঃ, তৎপিণ্ডতদ্ভৰ্তৃপিণ্ড-
তদ্ভৰ্তৃদেয়পুরুষত্রয়পিণ্ডদাতৃহ্রাৎ ।

৭ । তদভাবে ভ্রাতৃহৃতঃ, তৎপিতৃপিতামহয়োঃ তস্যশ্চ
পিণ্ডদাতৃহ্রাৎ ।

৮ । তদভাবে স্বশুরয়োঃ পিণ্ডদানাজ্জামাতা অধিকারী ।

৯ । বচনন্ত এতেষামধিকারমাত্রপ্রতিপাদকং নতু ক্রম-
বিধায়কমিতি ।

১০ । জামাতৃপর্যন্তভাবে সপিণ্ডানন্তর্য্যক্রমেণ স্বশুর-
ভ্রাতৃস্বশুরাদীনাং সপিণ্ডানামধিকারঃ ।

১১ । সপিণ্ডভাবে সকুল্যাঃ সমানোদকাঃ সমানপ্রবরাশ্চ
পুন্স্বৎ ক্রমেণাধিকারিণঃ ।

১২ । এতৎসৰ্ব্বভাবে ব্রাহ্মণীধনে স্বগ্রামশ্রোত্রিয়া-
দেবধিকারঃ ।

১৩ । ঋত্ৰিয়াদিস্ত্রীধনে তু রাজ্ঞ এবাধিকারঃ । ইতি
স্ত্রীধনাধিকারক্রমঃ ।

তৃতীয়োহধ্যায়ঃ ।

১ । অথ বিভাগানধিকারিণঃ কথ্যন্তে, এতৎপর্য্যু-
দাসেনাধিকারিজ্ঞাপনার্থং । মনুঃ । অনংশৌ ক্লীবপতিভৌ

জাত্যক্ষবধিরো তথা । উন্মত্তজড়মূকাশ্চ যে চ কেচিম্মিরিন্দ্রিয়াঃ ।
ক্লীবমাহ কাত্যায়নঃ । ন মুত্রং ফেনিলং যস্য বিষ্ঠা চাপ্সু
নিমজ্জতি । মেঢ়ক্শোন্মাদশুক্ৰাভ্যাং হীনং ক্লীবং সউচ্যতে ।

২ । জাত্যা স্বভাবেন নহাগন্তবহেতোরন্ধোবধিরশ্চ যঃ ।
জন্মাবধ্যক্ষবধিরাবিত্যর্থঃ । নারদঃ । পিতৃদ্বিট্ পতিতঃষণ্ডো-
যশ্চ স্যাদৌপপাতিকঃ । ঔরসাপি নৈতেহংশং লভেরন্-
ক্ষেত্রজাঃ কুতঃ ।

৩ । পিতৃদ্বিট্, জীবতি পিতরি তভাডনকৃৎ মূতে শ্রাদ্ধাদি-
বিমুখঃ ।

৪ । ঔপপাতিকঃ উপপাতকাদিদৌষৈর্কাক্ষবৈভিমো-
দকীকৃতঃ ।

৫ । তথা যাজ্ঞবল্ক্যঃ । সর্ব্বেব বিকর্মন্থানাহন্তি ভ্রাত-
রোধনং ।

৬ । বিকর্মন্থাঃ, বিরুদ্ধকর্মন্থাঃ পানদ্যুতাদ্যাসক্তা,
ইতি যাবৎ ।

৭ । মনুঃ । পতিতস্তৎস্বতঃ ক্লীবঃ পঙ্গুরন্মত্তকো জড়ঃ ।
অন্ধোহচিকিৎস্যরোগার্ভো ভর্ভব্যাস্তে নিরংশকাঃ ।

৮ । পদ্ম্যাং ন গচ্ছতীতি পঙ্গুঃ ।

৯ । জড়োবেদগ্রহণাসমর্থঃ ।

১০ । নারদঃ । দীর্ঘতীব্রাময়গ্রস্তাজড়োন্মত্তান্ধপঙ্গবঃ ।
ভর্ভব্যঃ স্যঃ কুলসৈ্যতে তৎপুত্রাস্ত্বংশভাগিনঃ ।

১১ । দীর্ঘং জন্মাদি ।

১২ । তীত্রং কুষ্ঠাদি ।

১৩ । তৎপুত্রা নির্দোষা অংশভাগিনঃ ।

১৪ । ভরণস্তু পত্নিতবজ্জং । তেষাং পত্নিতবজ্জৈভ্যো
ভক্তং বস্ত্রং প্রদীয়তে ইতি নারদবচনাৎ ।

১৫ । পত্নিতপদেন তৎস্বতস্যাপ্যুপাদানং, পত্নিতোৎ-
পন্নত্বেন পত্নিতত্ত্বাৎ ।

১৬ । ব্যক্তমাহ বৌধায়নঃ । অতীতব্যবহারান্ গ্রাসা-
চ্ছাদনৈর্বিভূয়ুরক্জড়ক্লীবব্যসনিব্যাদিতাদীংশ্চাকর্শ্মিণঃ পত্নিত-
তজ্জাতবজ্জমিতি ।

১৭ । এতেষাং ভার্য্যাণামনধিকারমাহ যথা । অপুত্রা-
যোষিতশ্চৈষাং ভর্তব্যঃ সাধুরন্তয়ঃ । নির্বাস্য্য ব্যভিচারিণ্যঃ
প্রতিকূলান্তথৈব চ । স্তৃতশ্চৈষাং প্রভর্তব্য্য যাবন্ন ভর্তৃমাৎ-
কৃতাঃ ।

চতুর্থোহধ্যায়ঃ ।

প্রথমপরিচ্ছেদঃ ।

অথ বিভাজ্যবিভাজ্য নির্ণয়ঃ ।

১ । তত্র বিভাজ্যমাহ কাত্যায়নঃ । পৈতামহঞ্চ পিত্র্যঞ্চ
যচ্চানাৎ স্বয়মর্জিতং । দায়াদানাং বিভাগে তু সর্বমেতদ্বিভ-
জ্যতে ।

২ । যচ্চান্যাদিতি চকারঃ স্বয়মিত্যনেন সম্বধ্যতে, তেন

ଭବେଂ । ପରଂନିରମ୍ୟ ଯଲ୍ଲକଂ ବିଦ୍ୟା ଦ୍ୟୁତପୂର୍ବକଂ । ବିଦ୍ୟାଧନସ୍ତ-
ତଦ୍ବିଦ୍ୟାମ୍ ବିଭାଜ୍ୟଂ ବ୍ରହ୍ମସ୍ପତିଃ ।

୧୪ । ଏଷାମର୍ଥଃ । ଯଦିଭବାନ୍ ଭଦ୍ରମୁପନ୍ୟାସ୍ୟତି ତଦା ଭବତେ
ମୟୈତାବଦ୍ଧନଂ ଦେୟମିତି ପଣିତଂ, ତତ୍ର ଭଦ୍ରୋପନ୍ୟାସେନ ଯଂ
ପଣିତଂ ଲବ୍ଧଂ, ତନ୍ନ ବିଭାଜ୍ୟଂ ତଥା ।

୧୫ । ଶିଷ୍ୟାଂ ଅଧ୍ୟାପିତାଂ ।

୧୬ । ଐତିକ୍ କର୍ମକରଣେନ ଯଜ୍ଞମାନାଂ ଦକ୍ଷିଣାରୂପଂ ଲବ୍ଧଂ
ଯଂ .

୧୭ । ଯତ୍ତ ଯତ୍ର କିଞ୍ଚିଦ୍ବିଦ୍ୟାୟଂ ପ୍ରଶ୍ନେ କେନାପି କୃତେ ତତ୍ର
ସମ୍ୟକ୍ତଭରେଣ ପରିତୋଷାଦପଣିତମେବ କିଞ୍ଚିଦ୍ଧନଂ ଦଦାତି ।

୧୮ । ତଥା ସନ୍ଦିଗ୍ଧପ୍ରଶ୍ନନିର୍ଣ୍ଣୟାଂ ସନ୍ଦିଗ୍ଧାର୍ଥେ ନିଶ୍ଚୟାର୍ଥଂ
ପ୍ରଶ୍ନେ କୃତେ ତନ୍ନିର୍ଣ୍ଣୟଜନନାଂ, ଯୋହ୍ୟସ୍ମିନ୍ ଶାସ୍ତ୍ରାର୍ଥେ ମମ ସଂଶୟମପ-
ନୟତି ତତ୍ତ୍ୱେ ଶ୍ଵର୍ଗାଦିକମିଦଂ ଦାୟାମୀତ୍ୟୁକ୍ତେ ତସ୍ୟ ସଂଶୟମପ-
ନୀୟ ଯଲ୍ଲକ୍ଷମିତ୍ୟର୍ଥଃ ।

୧୯ । ଅଥବା ବାଦିନୋଃ କୁତ୍ରଚିଦ୍ବାଦବିଷୟେ ସନ୍ଦେହେ ନ୍ୟାୟକର-
ଗାର୍ଥମାଗତ୍ୟୋଃ ସମ୍ୟକ୍ତନିରୂପଣେନ ଯଲ୍ଲକ୍ଷମିତ୍ୟର୍ଥଃ ।

୨୦ । ତଥା ସ୍ଵଜ୍ଞାନଶଂସନାଂ ଶାସ୍ତ୍ରାଦିଷୁ ପ୍ରକୃଷ୍ଟଂ ସ୍ଵଜ୍ଞାନଂ
ପ୍ରକାଶ୍ୟପ୍ରତିଗ୍ରହାଦିନା ଯଲ୍ଲକ୍ଷମିତ୍ୟର୍ଥଃ ।

୨୧ । ତଥା ବାଦାଂ ବାଦବିଚାରେ ପରଂ ନିର୍ଜିହତ୍ୟ ଯଲ୍ଲକଂ ।

୨୨ । ତଥାଏକସ୍ମିନ୍ଦେୟେ ବସ୍ତୁନି ବହୁନାଂ ବ୍ରାହ୍ମଣାନାଂସମୁଦାନେ
ସେନ ପ୍ରକୃଷ୍ଟବେଦମଧୀତ୍ୟ ଯଲ୍ଲକଂ । ତଥା . ଶିଳ୍ପବିଦ୍ୟା ଚିତ୍ରକାର-
ଶ୍ଵର୍ଗକାରାଦିଭିର୍ଯଲ୍ଲକଂ ।

২৩। তথা দ্যুতেনাপি পরং নির্জ্জিত্য যল্লকং । তৎসর্বং
বিদ্যাধনং অবিভাজ্যমিতরৈঃ সহেতি ।

২৪। অত্রাপি বিশেষমাহ কাत्याয়নঃ । পরভক্তোপ-
যোগেন বিদ্যাপ্রাপ্তান্যতস্তু যা । তয়া লকং ধনং তু বিদ্যা-
লকং তদুচ্যতে ।

২৫। তেন পিতৃপিতৃব্যাদ্যতিরিক্ততঃ প্রাপ্তয়া যয়া কয়া-
চিদ্ধিদয়া সাধারণধনোপঘাতমন্তরেণ যদজ্জিতং তৎ সমবিদ্য-
বিদ্যাধিকৈরেব বিভাজ্যং ন তু ন্যূনবিদ্যাবিদ্যোরিতি সমুদায়াধ-
নিষ্কৰ্ণঃ ।

দ্বিতীয়পরিচ্ছেদঃ ।

অথাবিভাজ্যং ।

১। তত্র নারদঃ । শৌর্য্যভার্য্যাধনে হিত্বা যচ্চ বিদ্যাধনং-
ভবেৎ । ত্রীণ্যেতান্যবিভাজ্যানি প্রসাদোযশ্চ পৈতৃকঃ ।

২। অয়মর্থঃ । শৌর্য্যধনং, ভার্য্যাপ্রাপ্তিনিমিত্তং শ্বশুরাদি-
তোলকং ধনং, বিদ্যাধনং, পিত্রাদিতঃ প্রসাদরূপেণ যল্লকং ধনং,
এতানি চতুর্থাবিভাজ্যানি যতোহতস্তানি হিত্বা অন্যদ্বিভজে-
দতিপ্রক্ৰান্তেনাশ্রয়ঃ । তথা মনুঃ । বিদ্যাধনস্ত যদ্যস্য তত্ত-
সৈব ধনং ভবেৎ । মৈত্রমৌদ্ধাহিককৈব মাধুপর্কিকমেব চ ।

৩। মৈত্রং মিত্রাল্লকং ।

৪। ঔদ্ধাহিকং জামাতৃতয়া শ্বশুরাদিভ্যোল্লকং ।

৫। মাধুপর্কিকং আত্মিজ্যল্লকং । তথা মনুঃ । অনুপপন্ন

পিতৃদ্রব্যং শ্রমেণ যদুপাঞ্জিতং । স্বয়মীহিতলকং তৎ নাকা-
মোদাতুমর্হতি ।

৬। তথা যাজ্ঞবল্ক্যঃ । ক্রমাদভ্যাগতং দ্রব্যং হতমপ্য-
দ্ধরেত্তু যঃ । দায়াদেভ্যোন তদদ্যাদিদ্যা লব্ধমেব চ ।

৭। ক্রমাদভ্যাগতং দ্রব্যং, অন্যান হতং যদি দায়াদান-
মনুমত্যা তেষামেকতমঃ সাধারণধনানুপঘাতেন ইতর-
ব্যাপারনৈরপেক্ষেণ চ সমুদ্ধরতি তন্ন বিভাজ্যমিতরৈঃ ।

৮। ভূমৌ তু বিশেষমাহ । পূর্বনষ্টান্ত যো ভূমি-
মেকএবোদ্ধরেৎ শ্রমাৎ । যথাভাগং ভজন্ত্যন্যে দদ্বাংশস্ত-
তুরীয়কং ।

৯। উদ্ধারকত্রে' উদ্ধৃতভূমেস্তুরীয়াংশং দদ্বা ভাগত্রয়ং
তেন সহ সর্বৈ স্বযোগ্যাংশক্রমেণ বিভজ্য স্বস্বাংশং লভন্তে
ইত্যর্থঃ ।

১০। তদেবমাদিবচনানাং অয়ং নিষ্কর্ষঃ ।

১১। বিভক্তেনাবিভক্তেন বা সাধারণধনানুপঘাতেন
অপরব্যাপারনৈরপেক্ষেণ চ যদিঞ্জিতং তদজ্জকমৈব, তদবি-
ভাজ্যমিতরৈঃ ।

১২। কিন্তু বিদ্যাধনমাত্রে বিশেষঃ প্রাগেবাভিহিতঃ ।

১৩। তথান্যদপ্যবিভাজ্যমাহতুঃ মনুবিষ্ণু । বস্ত্রং পত্র-
মলঙ্কারং কৃত্যমমুদকং স্ত্রিয়ঃ । যোগক্ষেম প্রচারশ্চ ন বিভাজ্যং
প্রচক্ষতে ।

১৪। বস্ত্রমঙ্গযোজিতং পণ্ডিত্তিপরিচ্ছেদার্থকং ।

১৫ । পত্রং বাহনমশ্বাদি ।

১৬ । অলঙ্কারোহ্মরীয়াদিঃ ।

১৭ । কৃতামং লড্ডুকাди ।

১৮ । উদকং কূপবাপ্যাদিগতং, পিত্তাদিসম্বন্ধিকূপাদি-
জলং নান্যধনবর্জিতাজ্যং, কিন্তু স্বশ্বব্যয়ানুসারেণ গ্রহীতব্যং ।
উদ্ধৃত্য কূপবাপ্যস্তনুসারেণ গৃহ্যত ইতি বৃহস্পতিবচনাৎ ।

১৯ । যোগক্ষেমপ্রচারঃ স্বশ্বব্যবহারোপযুক্তশয়নাসন-
ভোজনপাত্রাদিঃ ।

২০ । তথা চ ব্যাসঃ । অবিভাজ্যং সগোত্রাণামাসনং
শয়নাদিকং । যাজ্ঞ্যং ক্ষেত্রঞ্চ পাত্রঞ্চ কৃতামমুদকং স্ত্রিয়ঃ ।

২১ । যাজ্ঞ্যং যাগস্থানং, দেবপ্রতিমা বা, নতু যাজনলব্ধং,
তস্য বিদ্যাধনত্বেন গতার্থত্বাৎ । তথা কাত্যায়নঃ । গো-
প্রচারশ্চ রথ্যা চ বস্ত্রং যচ্চান্নযোজিতং । প্রায়োজ্যং ন
বিভজ্যেত শিল্পার্থঞ্চ বৃহস্পতিঃ ।

২২ । প্রায়োজ্যং যদ্ব্যস্য প্রয়োজনাহং, যথা শ্রুতাদৌ
পুস্তকাদি, ন তন্মুখৈর্বিভজনীয়মিতি দায়ভাগঃ ।

২৩ । তথাচ পুস্তকং মুখৈর্মুখং গ্রাহ্যং পণ্ডিতানাংমেব তৎ ।

২৪ । তদন্তর্গতস্বাংশস্য তুল্যমূল্যদ্রব্যান্তরং মূল্যমেব
বা পণ্ডিতান্তেন গ্রাহ্যং । অন্যথা মুখস্য পুস্তকানধিকারিত্ব-
পগমে যত্র পুস্তকমাত্রং সাধারণমস্তি, তত্র বিভাগে মুখস্য ভাগ-
লোপাপত্তিঃ ।

২৫ । ন চেন্টাপত্তিঃ । যে জাতায়েহপ্য জাতাশ্চ যে চ

ଂର୍ତ୍ତେ ବ୍ୟବସ୍ଥିତାଃ । ବୃତ୍ତିଂ ତେହପି ହି କାଞ୍ଚନ୍ତି ବୃତ୍ତିଲୋପୋ ନ
ବିଦ୍ୟାତେ ଇତ୍ୟନେନ ବିରୋଧଃ ୧ ।

୨୬ । ନଚ ତଦ୍ବଚନମ୍ୟ ତଦିତରବିଷୟତ୍ବେନ ସଙ୍କୋଚଃ । ଅସ-
ଙ୍କୋଚେନେବ ଉପପତ୍ତୌ ସଙ୍କୋଚସ୍ୟାହନ୍ୟାୟସିଦ୍ଧହାଂ ।

୨୭ । ଏବଂ ଶିଲ୍ଲୋପଯୁକ୍ତଂ ଶିଲ୍ଲିନାମେବ ନାଶିଲ୍ଲିନାଂ ।
ତଦ୍ରାପୀଦୃଶୀ ବ୍ୟବସ୍ଥେତି ।

୨୮ । ତଥା ଶାଞ୍ଜାଲିଖିତୌ । ନ ବାସ୍ତବିଭାଗୋନୋଦକପାତ୍ରା-
ନଙ୍କାରୋପଯୁକ୍ତସ୍ତ୍ରୀବାସମାମପାଂପ୍ରଚାରରଥ୍ୟାନାଂ ବିଭାଗଶ୍ଚେତି ବ୍ରହ୍-
ମ୍ପତିଃ ।

୨୯ । ପିତରି ଜୀବତି ଯସ୍ମିନ୍ ବାସ୍ତୌ ଯେନ ଯଂ ଗୃହୋଦ୍ୟା-
ନାଦିକଂ କୃତଂ ତନ୍ତସ୍ୟାବିଭାଜ୍ୟଂ । ପିତୁରପ୍ରତିଷେଧୋନୁ-
ମତତ୍ତ୍ବାଂ ।

୩୦ । ଏତତ୍ତାପରେଣାପି ବାସ୍ତୁନ୍ତରେ ତଥାକରେଣ ବୋଧ୍ୟଂ ।

୩୧ । ଉପଯୁକ୍ତଂ ଭୋଜନପାତ୍ରାଦି ।

୩୨ । ଦ୍ବିଯୋଦାମୀବ୍ୟାତିରିକ୍ତାହିତି ।

ପଞ୍ଚମୋଽଧ୍ୟାୟଃ ।

ପ୍ରଥମପରିଚ୍ଛେଦଃ ।

୧ । ଅଥ ସଂସ୍ପର୍ଷିବିଭାଗାର୍ଥମାଦୌ ସଂସର୍ଗୋନିରୂପ୍ୟତେ ।

୨ । ତତ୍ରାହ ବ୍ରହ୍ମମ୍ପତିଃ । ବିଭକ୍ତୋଽୟଃ ପୁନଃ ପିତ୍ରା ଭ୍ରାତ୍ରା
ଚୈକତ୍ର ସଂସ୍ଥିତଃ । ପିତୃବ୍ୟୋମାସ ବା ପ୍ରୀତ୍ୟା ମତୁ ସଂସ୍ପର୍ଷ
ଉଚ୍ୟତେ ।

৩। তেন পিত্রাদিভিঃ সহ বিভক্তঃ সন্ পুনরন্যোন্যে-
চ্ছয়া পূর্ব্বকৃতবিভাগমুপেক্ষ্য যত্ত্ব ধনং তন্মম ধনং, যন্মম ধনং
তত্তবেতি ব্যবস্থয়া একগৃহীকরূপতয়া ব্যবস্থানং সংসর্গ ইতি
প্রাপন্নং ।

৪। অত্র পিত্রাদিবিশেষোপাদানাদেতেষামেব নিকৃতঃ
সংসর্গো ভবতি, ন ত্বনুপাত্তপিতৃব্যপুত্রাদিভিরপি । অন্যথা
পিত্রাদিবিশেষোপাদানবৈয়র্থ্যাদিতি দায়ভাগমতং ।

৫। পিত্রাদিপদং উপলক্ষণং যেষামেবোংপত্তিতোহ-
বিভক্তত্বং তেষামেব বিভাগানন্তরমেকত্রাবস্থানং সংসর্গঃ ।
তেন পিতৃব্যপুত্রাদিভিরপি সংসর্গোভবতীতি মৈত্রি মতং ।

৬। অথ সংসৃষ্টিবিভাগঃ ।

৭। তত্র সংসৃষ্টীভ্রাতৃণাং পুনর্বিভাগে জ্যেষ্ঠস্য জ্যেষ্ঠাং
শিতা নাস্তি, কিন্তু সর্ব্বভ্রাতৃণাং সমাংশিতৈঃ । তথা বৃহ-
স্পতিঃ । বিভক্তভ্রাতরো যে চ সম্প্রীতৌকত্র সংস্থিতাঃ ।
পুনর্বিভাগকরণে তেষু জ্যেষ্ঠং ন বিদ্যতে ইতি ।

৮। অত্র ভ্রাতৃণাং অন্যেষাং বা তুল্যসম্বন্ধিনাং সংসর্গ্যসংস-
র্গিণাং মধ্যে সংসর্গিণামেব প্রথমং মৃতসংসর্গিধনেধিকারঃ,
সংসৃষ্টিনস্ত সংসৃষ্টীতি বক্ষ্যমাণবচনাৎ ।

৯। তদভাবে তথাবিধাসংসর্গিণামিতি ক্রমঃ ।

১০। এবং যদা পিত্রা পুত্রান্ বিভজ্য যথাশাস্ত্রং ভাগং
গৃহীত্বা পুত্রৈঃ সহাসংসৃষ্টেব পুত্রান্তরমুৎপাদ্য মৃতস্তদা বিভাগা-
নন্তরজাতএব তৎপিতৃধনাধিকারী, নহু পূর্ব্ববিভক্তোপীতি ।

১১। এবং পূর্বভ্রাতৃবিভাগেহপি বিভক্তজস্য নাংশিত্বং ।

১২। তথা বৃহস্পতিঃ । পিত্রা সহ বিভক্ত্যে সাপত্ন্যাবা
সহোদরাঃ । জঘন্যজাশ্চ যে তত্র পিতৃভাগহরাস্ত তে । অনীশঃ
পূর্বজঃ পিত্রে ভ্রাতৃভাগে বিভক্তজঃ । পরস্পরমনীশাস্তে মু-
ক্ত্যুহশৌচোদকক্রিয়াইতি ।

১৩। জঘন্যজাবিভাগানন্তরজাতাঃ ।

১৪। যদি যেন কেনচিৎ পুত্রেণ সহ সংস্কৃৎ সন্ পিতা-
মৃতস্তদা তদ্ধনং সংস্কৃৎবিভক্তজাত্যাং পুত্রাভ্যাং সমং বি-
ভাজ্যং । উর্দ্ধং বিভাগাজ্জাতস্ত পিত্রমেব হরেদ্ধনং । সংস্কৃতা-
স্তেন বা যে স্যুর্বিভজেত সতৈঃ সহেতিবচনাৎ ।

১৫। অত্র বিশেষঃ । সংস্কৃৎনাপি পিত্রা সাধারণধন-
শরীরায়াস্যাভ্যাং যদজ্জিতং তদ্বিভক্তজম্যেব, নতু সংস্কৃৎপুত্রা-
ন্তরম্যাপি ।

১৬। তথাচ বৃহস্পতিঃ । পুত্রৈঃ সহ বিভক্তেন পিত্রা-
যৎস্বয়মজ্জিতং । বিভক্তজস্য তৎসর্বমনীশাঃ পূর্বজাঃ স্মৃতাঃ ।

১৭। অত্র স্বয়মিত্যেনে সাধারণধনশরীরায়াসেনাজ্জিতং-
দর্শয়তি । এবং বিভক্তপিত্রা যদৃগাদিকং স্বার্থমেব কৃতং তদ্বি-
ভক্তজেনৈব সমাধেয়ং ।

১৮। যথা ধনে তথর্গেহপি দানাদানক্রয়েষু চেতি তদ্বচন-
শেষাৎ ।

১৯। যদি পুনঃ সংস্কৃৎসহ সাধারণ্যেন ঋণাদিকং পিত্রা-
কৃতং তদুভাভ্যামেব সংস্কৃৎবিভক্তজাত্যাং সমাধেয়ং ।

২০। বিভক্তজশ্চ বিভাগানন্তরং গর্ত্তাধানেনোৎপন্নঃ ।
গর্ত্তাধানাদৃতে জনকব্যাপারাবাৎ ।

২১। অতোযদ্যজ্ঞাতগর্ত্তায়ামেব স্ত্রিয়াং পুত্রাবিভক্তাঃ
তদা তদগর্ত্তজাতোবিভক্তেভ্যেব ভ্রাতৃভ্যঃ পূর্ববিভক্তদ্রব্য্যাণ্যে
কৌকৃত্য পুনর্বিভজ্য স্বাংশং গৃহীয়াৎ, নতু বিভক্তজেন সহ
পিতৃদ্রব্যেহপ্যাংশিত্বং ।

২২। এতচ্চ বিভক্তজস্য পিতৃধনাধিকারিত্বং পিতুঃ স্বার্জিত-
ধনবিষয়ং । পৈতামহধনস্যত্র মাতুর্কিমাভূচ্চ রজোনিবৃতিমন্ত-
রেণ বিভাগাবাৎ । ভ্রাতৃভ্যাং কৃতস্য তস্যাস্ত্রীয়েহেনানুপা-
দেয়ত্বাৎ ।

২৩। তত্র বিভক্তজাবিভক্তজানাং সর্কেষামেবাংশিত্বাৎ ।
অতএব যদি দৈবাৎ পৈতামহমপি ভূম্যাদিকং বিভজ্য যথাশাস্ত্রং
স্বয়মংশদ্বয়ং গৃহীত্ব পিতা পৃথক্ স্থিতঃ তদাপি পিতামহসম্বন্ধি-
ধনবিভাগং ভ্রাতৃদিভ্যোবিভক্তজোহপি গৃহীয়াৎ পূর্ববিভাগ-
স্যাস্ত্রীয়েহেননিবর্ত্যতাৎ ।

২৪ তথাত্রৈব বিষয়ে বিষ্ণুঃ । পিতৃবিভক্তাবিভাগানন্ত-
রোৎপন্নস্য ভাগং দদ্যুরিতি ।

ষষ্ঠোহধ্যায়ঃ ।

প্রথমপরিচ্ছেদঃ ।

অথ পিতৃকৃতবিভাগোনিরূপ্যতে ।

১। তত্র পিত্রা কৃতবিভাগঃ পিতৃকৃতবিভাগঃ । তত্র

স্বোপার্জিতে ধনে পিতুরিচ্ছেব নিয়ামিকা । পিতামহধনে তু
মাতৃরজোনিবৃত্তিসহকৃতা তদিচ্ছা নিয়ামিকা ইতি বিশেষঃ ।

২ । পিতা চেৎ পুত্রান্ বিভজেৎ তস্য স্বেচ্ছা স্বয়মুপান্তে-
হর্থে ইতি বিষ্ণুবচনাৎ ।

৩ । পিতামহধনবিষয়ে উদ্ধৃৎ পিতুঃ পুত্রাণ্যক্খং বিভজে-
রন্ মাতুর্নিবৃত্তে রজসি জীবতি চেচ্ছতীতি গোতমবচনাৎ ।

৪ । ন চ গোতমবচনং পিতুঃ স্বোপান্তধনবিষয়মেব কিং
ন স্যাদিতি বাচ্যং । পিতুঃ স্বোপার্জিতধনে রজোনিবৃত্ত্যন্তর-
মেব বিভাগাভ্যুপগমে । উদ্ধৃৎ বিভাগাজ্জাতস্ত পিত্রমেব হরে-
দ্ধনং ইত্যস্য নির্বিবর্ধয়ত্বাপত্তেঃ । রজোনিবৃত্তৌ পুত্রোৎপত্ত্য-
ভাবাৎ ।

৫ । ন চৈতসৌব পিতামহধনগোচরত্বং অতো ন নির্বি-
ষয়ত্বমিতি বাচ্যং । তথাহে পিতামহধনে বিভক্তজস্য নিরংশ-
তয়া তস্য বৃত্তিলোপাপত্তেঃ । বৃত্তিলোপস্য চ যে জাতা যেপ্য-
জাতাশ্চেতিবচনেন নিষেধাৎ ।

৬ । ন চ পিতৃগৃহীতপিতামহদ্রব্যএব পিত্রনস্তরং বিভক্ত-
জস্যাধিকারান্ন বৃত্তিলোপইতি বাচ্যং, পিত্রা সকলতদ্ধনস্য
ভুক্তত্বে বৃত্তিলোপস্যাবশ্যকত্বাৎ ।

৭ । বস্তুতঃ পিতা চেৎ পুত্রান্ বিভজেৎ, তস্য স্বেচ্ছা স্বয়-
মুপান্তেহর্থে ইতি বিষ্ণুবচনেন পিতুঃ স্বার্জিতে ইচ্ছামাত্রস্য
প্রযোজকত্বাৎ, তদনুরোধেন মাতৃরজোনিবৃত্তেঃ সহকারিত্বা-
ভিধায়কং গোতমবচনং পিতামহধনবিষয়মেবেতি তত্বং ।

৮। তত্র পিতুঃ স্বেপান্তধনবিভাগে যাবদেব স্বয়ঃ গ্রহীতুমিচ্ছতি, তাবদেব গৃহীত্বাহন্যং পুত্রেভ্যোবিভজেৎ, লিখিতবিম্বুবচনাৎ জীবন্মেব বা বিভজ্য বনমাশ্রয়েৎ বৃদ্ধাশ্রমস্থা গচ্ছেৎ স্বম্নেন বা বিভজ্য ভূযিষ্ঠমাদায় বসেৎ যদ্যুপদশ্যেৎ পুনস্তেভ্যো গৃহীয়াদিতি হারীতবচনাচ্চ ।

৯। বৃদ্ধাশ্রমং প্রভজ্যা ।

১০। উপদশ্যেৎ, ভুক্তাশেষধনঃ স্যাৎ ।

১১। যদি তু কশ্মৈচিৎ পুত্রায় গুণবত্তয়া ভক্ততেন বহুপো-
যতেনাক্ষমতেন বা নিমিত্তেনাধিকং দদাতি তদা সোহপি
শাস্ত্রার্থঃ ।

১২। পিত্রেব তু বিভক্তায়ে সমন্যানাধিকৈর্ধনৈঃ । তেষাং
সএব ধর্ম্যঃ স্যাৎ সর্বস্য হি পিতা প্রভুরিতি নারদবচনাৎ ।

১৩। প্রভুঃ, স্বেচ্ছয়া যথেষ্টবিনিয়োগার্থঃ । তেনৈতদ্বচনং
স্বাজ্জীতবিষয়ং পিতামহধনে নিরুক্তপ্রভৃতাসম্বাৎ ।

১৪। উক্তান্যনিমিত্তং বিনা তু ব্যাধ্যাদ্যাকুলচিত্ততয়া
কস্মিংশ্চিৎ পুত্রে ক্রোধেন বা স্তভগাপুত্রম্নেহেন বা ন্যনাধিক-
দানে ন পিতুঃ প্রভুত্বং । ব্যাধিতঃ কুপিতশ্চৈব বিষয়াসক্ত-
চেতনঃ । অযথাশাস্ত্রকারী চ ন বিভাগে পিতা প্রভুরিতির
দীয়াৎ ।

১৫। বিষয়াসক্তত্বং স্তভগাপুত্রত্বাদিনা ।

১৬। পিতৃকৃতপিতামহধনবিভাগে তু পিতা স্বয়মংশদ্বয়ং

গ্রহীত্বা পুত্রৈভ্যএকৈকাংশং দদ্যাৎ । জীবদ্বিভাগে তু পিতা
গ্রহীতাংশদ্বয়ং স্বয়মিতি পিতামহধনগোচরবৃহস্পতিবচনাৎ ।

১৭ । পিতৃধনগোচরতৃণস্য নাশঙ্কনীয়ং, তত্র স্বেচ্ছা-
মাত্রাধীনগ্রহণপ্রতিপাদকবিষয়াদিবিরোধাত্, ইচ্ছয়া ন্যূনা-
ধিকগ্রহণস্যাপি সম্ভবাৎ, ভাগদ্বয়মাত্রগ্রহণানুপপত্তেষ্চ ।

১৮ । পূর্বোক্তগুণবদ্ধাদিনিমিত্তেনাপি পিতামহধনস্য
ভূমিনিবন্ধদ্বিপদান্যতমরূপস্য ন্যূনাধিকদানে পিতৃন্ম' প্রভুত্বং ।
ভূর্য্যা পিতামহোপাত্তা নিবন্ধো দ্রব্যমেব বা । তত্র স্যাৎ সদৃশং
স্বাম্যং পিতুঃ পুত্রস্য চোভয়োরিতি পিতুঃ স্বাচ্ছন্দ্যানিবৃত্তিপৰ-
যাজ্ঞবল্ক্যবচনাৎ । সতি পিতামহধনস্বামিনি পিতরি তৎপু-
ত্রাণাং পিতামহধনস্বামিত্বাপ্রসক্তের্থথাশ্রুতার্থাবাদাৎ ।

১৯ । ভূম্যাদিত্রিতয়াতিরিক্তে মণিমুক্তাদৌ তু পৈতা-
মহে পিতুঃ স্বার্জিতবৎ স্বাচ্ছন্দ্যমেব । মণিমুক্তাপ্রবালানাং
সর্বস্যৈব পিতা প্রভুঃ । স্বাবরস্য তু সর্বস্য ন পিতা ন
পিতামহইতি যাজ্ঞবল্ক্যীয়াৎ ।

২০ । অত্র মণিমুক্তাপ্রবালানামিত্যুপাদায় পুনঃ সর্বস্যে-
ত্যুপাদানং ভূম্যাদিত্রিতয়ভিন্নবাবৎসুবর্ণাদিদ্রব্যগ্রহণার্থং । দ্বি-
তীয়ার্দ্ধে সর্বস্যেত্যুপাদানাৎ সর্বস্য কুটুম্ববর্তনাবিরোধেন
স্বাবরাদেৰ্ণ দানাদিনিষেধইতি দায়ভাগঃ ।

২১ । এবং পিত্রা স্বার্জিতধনাৎ পিতামহধনান্না বিংশো-
দ্ধারোহপি জ্যেষ্ঠায়েচ্ছয়া দাতব্যঃ । বিভাগক্ষেৎ পিতা কুর্য্যাৎ
স্বেচ্ছয়া বিভজেৎ স্ততান্ । জ্যেষ্ঠস্মা শ্রেষ্ঠভাগেন সৰ্ব্বৈ

বা স্ত্র্যঃ সমাংশিন ইতি যাজ্ঞবল্কীয়াং । অত্র পূৰ্ব্বাৰ্দ্ধং স্বার্জিত-
বিষয়ং, পরাৰ্দ্ধং পিতামহধনগোচরমিতি দায়ভাগঃ ।

২২ । তথা পিত্রা স্বার্জিতধনবিভাগে পুত্রহীনপত্নৌ পুত্র-
তুল্যাংশো দেয়ঃ । অস্ততাস্ত পিতুঃ পত্ন্যঃ সমানাংশাঃ প্রকী-
ৰ্ত্তিতা ইতিব্যাসবচনাং ।

২৩ । পিতুরিতি কর্ত্তরি স্ত্রী, পুত্রকর্ত্তৃকবিভাগে বিমাতু-
রংশাভাবস্য চ বক্ষ্যমাণতাং ।

২৪ । সমানাংশদানমপি ভত্রাদিতঃ স্ত্রীধনাদানে । যথা
যাজ্ঞবল্ক্যঃ । যদি কুর্যাং সমানাংশান্ পত্ন্যঃ কার্য্যাঃ সমাং-
শিকাঃ । ন দত্তং স্ত্রীধনং বাসাং ভত্রা বা শ্বশুরেণ নেতি ।

২৫ । বাভ্যঃ স্ত্রীধনং দত্তং তৎসমানধনবতোহুপুত্রাঃ-
পত্ন্যঃ পিত্রা কার্য্যা ইত্যর্থঃ ।

২৬ । তাদৃশস্ত্রীধনভাবে তু পুত্রসমাংশিকাঃ কার্য্যা
ইত্যর্থঃ । পুত্রেভ্যঃ সমাংশদানে ইয়ং ব্যবস্থা ।

২৭ । পুত্রেভ্যোন্যনদানে দ্বয়মধিকগ্রহণে তু স্বাংশাং
সমাংশিকাঃ কার্য্যাঃ, মিশ্রসম্মতমপ্যেতৎ ।

২৮ । স্ত্রীধনদানে তুর্দ্ধদানং । অধিবিন্নস্ত্রি়ে প্রাপ্তধনায়ৈ
আধিবেদনিকস্যাক্তানদর্শনাং সাংদৃষ্টিকন্যায়েন ।

২৯ । তথাচ যাজ্ঞবল্ক্যঃ । অধিবিন্নস্ত্রি়ে দেয়মাদিনেদনিকং
সমং । ন দত্তং স্ত্রীধনং যস্যৈ দত্তে তুর্দ্ধং প্রকীৰ্ত্তিতমিতি ।

৩০ । দ্বিতীয়বিবাহার্থিনা প্রথমস্ত্রি়ে পারিতোষিকং
যদ্ধনং দীয়তে, তদাধিবেদনিকং অধিকবিবাহার্থদাতব্যং ।

৩১। তত্র দ্বিতীয়স্ত্রিযৈ যাবদীয়তে তৎসমং দেয়-
মিত্যর্থঃ । দায়ভাগোহ্যেৎসং । মিশ্রাস্ত্র স্ত্রীধনদানে নার্কদানং
বচনাভাবাদিতি বদন্তি ।

৩২। শূদ্রস্য দাসীপুত্রোহপি পিতুরিচ্ছয়া পরিণীতস্ত্রী-
জাতপুত্রেন সহ তুল্যাধিকারী, যুতে তু পিতরি তদর্দ্ধাংশাধি-
কারী । তথাবিধভ্রাত্ৰ্যভাবে দৌহিত্রে চাসতি পিতুঃ সর্ব-
ধনাধিকারী, সতি তু দৌহিত্রে তেন সহ তুল্যাধিকারী ।

৩৩। ইত্যাহ যাজ্ঞবল্ক্যঃ । জাতোহপি দাস্যাং শূদ্রেণ
কামতোহংশহরোভবেৎ । যুতে পিতরি কুর্য্যুস্তং ভ্রাতরত্ব-
ভাগিনং । ভ্রাতৃকো হরেৎ সর্বং ছুহিতৃণাং স্ততাদৃতে ।

৩৪। কামতঃ পিতুরিচ্ছাতঃ ।

৩৫। ছুহিতৃণাং স্ততাদৃতইতি, এবঞ্চ সতি দৌহিত্রেণ
সহ সমভাগিত্বমস্যা । সমং স্যাদশ্রুততাদ্বিশেষমস্যেতি ন্যায়াৎ ।
এবমেব দায়ভাগঃ ।

সপ্তমোহধ্যায়ঃ ।

অথ যুতে পিতরি ভ্রাতৃণাং বিভাগঃ ।

১। সোহপি পিতৃমরণানন্তরং ভ্রাতৃণাং সত্যপি ধনস্বামিত্তে
মাতরি জীবন্ত্যাং ন পশ্য্যেৎ । উর্দ্ধং পিতৃশ্চ মাতৃশ্চ সমেত্য ভ্রাতরঃ
সমং । ভজেরনপৈতৃকং স্বক্ণমনীশাস্তে হি জীবতোরিতি মনুনা
মাতুরর্দ্ধসোক্তত্বাৎ ।

২। যদি তু জীবন্ত্যাং মাতরি বিভাগং কুর্বন্তি তদা মাতাপি স্বপুত্রতুল্যাংশহারিণী । সমাংশহারিণী মাতা পুত্রাণাং স্যাম্মৃত্যে পর্তো ইতিবচনাৎ ।

৩। অত্র মাতৃপদস্য জননীপরতাং বিনা তুর্গাংশিতা কিন্তু গ্রাসাচ্ছাদনাদিনা ভর্তব্যোতি ।

৪। এবং পিতামহধনে পৌত্রৈর্কির্বিভজ্যমাণে পিতামহ্যপি পৌত্রতুল্যাংশভাগিণী । পিতামহ্যশ্চ সর্বাস্তা মাতৃতুল্যাঃ প্রকীৰ্ত্তিতাইত্যত্র মাতৃতুল্যাইত্যনেন যথা স্বপুত্রকৃতভৰ্দ্ধন-বিভাগে মাতুঃ পুত্রতুল্যাংশিতং তথা পিতামহধনে পৌত্রৈর্কির্বিভজ্যমাণে পিতামহ্যঅপি পৌত্রতুল্যাংশিতুমিতিপ্রতিপাদনাৎ ।

৫। অত্রাপি পিতামহীসপত্নীনাং নাংশিতং কিন্তু ভর্তব্যতামাত্রং ।

৬। পূর্বোক্তন্যায়েন পিতামহীপদস্যাপি পিতৃজননীমাত্র-বাচকত্বাদিতিসম্প্রদায়ঃ । বস্তুতস্ত পিতামহ্যশ্চ সর্বাস্তামাতৃ-তুল্যাঃ প্রকীৰ্ত্তিতাইত্যত্র সর্বপদোপাদানাৎ বহুবচনাচ্চ পিতামহীসপত্নীনামপি তত্রাংশিতুমিতিযুক্তং ।

৭। মৈথিলাস্ত সমাংশহারিণী মাতা পুত্রাণাং স্যাম্মৃত্যে পতাবিত্যত্র মাতৃপদং বিমাতৃপরমপি বৃহস্পতিবচনৈকবাক্য-ত্বাৎ । তথাচ বৃহস্পতিঃ । তদভাবে তু জননী তনয়াংশসমাংশি-
ণী । সমাংশামাতরন্তেষাং তুরীয়াংশাস্ত কন্যাকাইতি ।
অস্যার্থঃ ।

৮। তদভাবে, পিতুরভাবে; অর্থাৎ পৌত্রৈক্বিভাগে ক্রিয়মাণে জননী পুত্রবতী মাতরোহপুত্রাবিমাতরঃ এতাঃ সৰ্ব্বাঃ স্বপুত্রতুল্যাংশভাগিন্যঃ ।

৯। এষাং ভাগিনাং ভগিন্যাশ্চা বিবাহিতাবিবাহার্থং স্বস্বভ্রাতৃশতুরীয়াংশভাজঃ ।

১০। বিবাহোচিতধনভাগিন্যোভবন্তীতি বিদন্তি । এতন্মতানুসারাচ্চ পিতামহীমপত্নীনামপি স্বভর্তৃধনেংশিত্বং যুক্তমেতিবোধ্যং ।

১১। অত্র সৰ্বণভ্রাতৃণাং বিভাগ উদ্ধারপূর্বকঃ সমএব বেতিদ্বিবিধঃ । বিপ্রকারে বিভাগস্ত দায়াদানাং প্রকীর্তিতঃ । বয়োজ্যেষ্ঠক্রমেণৈকঃ সমাপরাংশকল্পনেতিবচনাৎ ।

১২। বয়োজ্যেষ্ঠেতু্যদ্ধারদর্শয়তি । ন চ কেবলসমভাগস্যপি শাস্ত্রীয়তে তস্মৈব নিত্যবদনুষ্ঠানে প্রাপ্তে সোদ্ধারবিধে-রননুষ্ঠানলক্ষণাপ্রামাণ্যপত্তিরিতিবাচ্যং । ভক্ত্যতিশয়াদিনাভ্রাতৃণামিচ্ছয়া সোদ্ধারবিভাগস্যপি সম্ভবাৎ ।

১৩। ইদানীঞ্চ ভ্রাতৃণাং ভক্ত্যতিশয়াভাবাৎ উদ্ধারাহ জ্যেষ্ঠাভাবাচ্চ লোকে সমভাগ এব দৃশ্যতে ।

১৪। জ্যেষ্ঠত্বঞ্চ মাতৃতঃ সজাতীয়বিমাতৃতোবা জাতানাং সৰ্ব্বেষাং ভ্রাতৃণামগ্রজাতত্বং । সদৃশস্ত্রীষু জাতানাং পুত্রাণাম-বিশেষতঃ । ন তেষাং মাতৃতোজ্যেষ্ঠঃ জন্মতোজ্যেষ্ঠমুচ্যতে ইতিমনুবচনাৎ ।

১৫। সদৃশস্ত্রীষু সৰ্বণাং ।

১৬। পুত্রিকোরসয়োস্ত সমাংশিত্রমেব ন তু পুত্রিকায়াঃ
প্রাক্তনত্রেহপি জ্যেষ্ঠাংশিতং । পুত্রিকায়াং কৃত্যাস্ত্র যদি
পুল্লোহনুজায়তে । সমস্তত্র বিভাগঃ স্যাজ্জ্যেষ্ঠতা নাস্তি হি
স্ত্রিয়া ইতিমনুবচনাৎ ।

১৭। বিংশোদ্ধারশচাসৌদরভ্রাতৃবিভাগএব সৌদরমাত্র-
ভ্রাতৃবিভাগে তু জ্যেষ্ঠস্য দ্ব্যাংশিত্বং । তথা চ বৃহস্পতিঃ । সম-
বর্ণাস্ত্র যে জাতাঃ সর্বৈ পুত্রা দ্বিজন্মনাং । উদ্ধারং জ্যায়সে
দদ্বা ভজেরনিতরে সমমিতি ।

১৮। সমবর্ণাস্ত্র, বহ্নীষু স্ত্রীধিত্যর্থঃ । অত্র সমবর্ণানান-
স্ত্রীজাতানামুদ্ধারোক্তেঃ একাধিকং হরেজ্যেষ্ঠ ইতি মন্তনা
দ্ব্যাংশী বা পূর্বজঃ স্যাদিতিগৌতমেন চ যদজ্যেষ্ঠস্য দ্ব্যাংশিত্র-
যুক্তং তং সৌদরমাত্র বিভাগএব পর্য্যবস্যতি সামান্যবিশেষ-
ন্যায়াৎ ।

১৯। অত্র সমবর্ণাস্ত্রিত্যভিধানাৎ বিষমবর্ণজাতানাং
ব্রাহ্মণাদি পুত্রাণাং যথাক্রমং চতুস্ত্রিছোকাংশিত্বং । তথাচ
মনুঃ । চতুরোহংশান্ হরেদ্বিপ্রস্ত্রীংশান্ ক্ষত্রিয়াস্ততঃ ।
বৈশ্যাস্ততো হরেদ্ব্যংশমংশঃ শূদ্রাস্ততো হরেদিতি ।

২০। শূদ্রস্যাপি পুত্ররক্ষার্থং জন্মদাপৃজারূপদেবকৃত্য-
স্যাত্ত্যদয়িকাদিরূপপিতৃকৃত্যস্য চ কর্তব্যত্বাৎ ।

২১। বৃহস্পতিবচনেহপি দ্বিজন্মনামিত্যুপলক্ষণং । তেন
শূদ্রস্যাপি বিংশোদ্ধারাদিকমন্ত্যেব পুমানরকত্রাণাদিরূপো-
পকারস্যাদিকলাভহেতোরবিশেষাৎ ।

২২। অতএব শূদ্রৈব ভার্য্যা শূদ্রস্য নান্যা ভার্য্যোপদিশ্যতে ।
তস্যাং জাতাঃ সমাংশাঃ স্যূর্য্যদি পুত্রশতং ভবেদিতিমনুনা
শূদ্রস্যাসবর্ণাভার্য্যাবিরহেণ বর্ণবৈষম্যপ্রযুক্তবিষমভাগনিবৃত্তি-
রেবোক্তা ; ন তু বিংশোদ্ধারাদি নিবৃত্তিরপীতি যুক্তমুৎ-
পশ্যামঃ ।

২৩। ঔরসেন তু দত্তকাদীনাং বিভাগে ঔরসস্য দ্ব্যংশিত্বং
সবর্ণদত্তকাদেৱেকাংশিত্বং হীনবর্ণদত্তকাদেস্তু নাংশিত্বং কিন্তু
গোসাচ্ছাদনমাত্রং ।

২৪। তথাচ নারদঃ । সৰ্কে হ্যনৌরসস্যেতে পুত্রাদায়-
হরাঃ স্মৃতাঃ । ঔরসে পুনরুৎপন্নে তেষু জ্যৈষ্ঠং ন বিদ্যতে ।
তেষাং সবর্ণা যে পুত্রাস্তে তৃতীয়াংশভাগিনঃ । হীনাস্তমুপ-
জীবৈয়ুর্গোসাচ্ছাদনসম্ভূতাঃ ।

২৫। দায়হরাঃ, পিতুঃ কুৎস্তাংশহরাঃ । তেষাং মধ্যে
যে সবর্ণাঃ পুত্রা ইত্যর্থঃ ।

২৬। বিভাগস্ত ধনিঃ পিত্রাদেৱাণং পরিশোধ্য তদব-
শিষ্টধনস্য করণীয়ঃ । উভমর্গেচ্ছয়া বিভজ্য বা তদুণং পরি-
শোধনীয়ং ।

২৭। তথাচ নারদঃ । যচ্ছিক্তং পিতৃদায়েভ্যোদত্ত্বং
পৈতৃকং ততঃ । ভ্রাতৃভিস্তদ্বিভক্তব্যমুণী ন স্যাদযথা পিতা ।

২৮। অত্র ঋণী ন স্যাদযথাপিতেত্যনেন বিভাগানস্তরমপি
ঋণপরিশোধনং দর্শিতং ; অন্যথা তদ্ব্যর্থং স্যাদিতি ।

২৯। এবমেকেন ভ্রাতাদিনা বহুপোষ্যতয়া যত্রাধিকং

ভুক্তং তত্র ভুক্তাংশো বিভাগমধ্যে ন প্রবেশনীয়ঃ, কিন্তু ভুক্তাবশিষ্টস্য বিদ্যমানস্যৈব ধনস্য বিভাগঃ কার্য্যঃ ।

৩০ । বন্ধু নামবিভক্তানাং ভোগং নৈব প্রদাপয়েৎ । দৃশ্যা-
দ্বা তদ্বিভাগঃ স্যাদায়ব্যয়বিশোধিতাদিতিনারদবচনাৎ ।

৩১ । দৃশ্যাহেতি, বাশব্দ এবার্থে । তেনাবিভক্ততাদশায়াং
যাবদ্ধনমুপচিৎ যাবচ্চব্যয়িতং তৎ সৰ্ব্বং বুদ্ধা যদৃশ্যং বিদ্যা-
মানং তস্মাদেব বিভাগঃ কার্য্যইত্যর্থঃ ।

৩২ । অসংস্কৃতভ্রাতৃভগিনীনাং পৈতৃকধনেन সংস্কার্যা-
তামাহব্যাসঃ । অসংস্কৃতাস্চ যে তত্র পৈতৃকাদেবতদ্ধনাৎ ।
সংস্কার্যা ভ্রাতৃভিজ্যেষ্ঠৈঃ কন্যকাস্চ যথাবিধীতি । পিতৃধনাভাবে
স্বধনেনাপি তৈরবশ্যং সংস্কার্যাঃ । অবিদ্যमानে পিত্রেণৈব স্বাশাং
ভুক্ত্য বা পুনঃ । অবশ্যকার্য্যাঃ সংস্কারাভ্রাতৃভিঃ পূৰ্ব্বসংস্ক-
তৈরিত্যি নারদবচনাৎ ।

অষ্টমোহধ্যায়ঃ ।

• অথ নিহ্নুতধনবিভাগঃ ।

১ । অথবিভাগকালে কেনচিদ্ভাগিনা নিহ্নুতস্য পশ্চাৎ
প্রাপ্তস্য বিভাগঃ ।

২ । তত্রমনুঃ । পাণে ধনে চ সৰ্ব্বম্বিন্ প্রবিভক্তে যথাবিধি ।
পশ্চাদ্দৃশ্যেত যৎ কিঞ্চিদ্ভৎ সৰ্ব্বং সমতাং নয়েৎ । পূৰ্ব্বং যস্য-
যথা ভাগকল্পনা কৃতা তৎ সমানৈবাপহত্রী সহাপহ্নুতদ্রব্যস্য

তথা সা কার্য্যা ন পুনরস্যাপহ্নোত্ৱতয়াহ্নভাগোদাতব্যো ন দা-
তব্যেববেতি সমতাং নয়ৈদিত্যস্যার্থঃ বিংশোদ্ধারাদিবাধে হেদ-
ভাৱাং ত্রাঙ্গগন্ধত্রিয়াদিপুত্রাণাং সমভাগাপভ্বেচ্চ । তথা
কাত্যায়নঃ । অন্যান্যাপহ্নতং দ্রবাং দুর্বিভক্তঞ্চ যদ্ববেৎ ।
পশ্চাৎপ্রাপ্তং বিভজ্যেত সমভাগেন তদ্বৃণ্ডঃ ।

৩ । পশ্চাৎপ্রাপ্তমিত্যেনাপহ্নতদ্রব্যস্যৈব বিভাগেন তু
পুনর্বিভক্তস্যাপি পুনর্বিভাগইতিদর্শিতং ।

৪ । দুর্বিভক্তমিত্যেনে ভ্রূমাদিনাকৃতাশাস্ত্রীয়বিভাগধনস্য
পুনঃ শাস্ত্রীয়বিভাগঃ কার্য্যইত্যর্থঃ । সক্ষুদংশোনিপততীতি চ-
শাস্ত্রীয়বিভাগানন্তরং পুনস্তদ্বিভাগইত্যেতৎপরং অতোনি-
হুতস্য দ্রব্যস্য নিছোত্রা সহ বখোলভাগঃ কার্য্যইতিস্থিতং ।

নবমোঃ অধ্যায়ঃ ।

অথ বিদেশগতস্য পুনরাগতস্য ভাগঃ ।

১ । তত্র রহস্পতিঃ । কৃতেহকৃতে বিভাগে বা ঋক্খী
যত্র প্রবর্ততে । সামান্যস্ত ভবেদযত্র তত্র ভাগহরস্ত সঃ ।

২ । ঋক্খী দায়াদঃ ।

৩ । সামান্যং সাধারণং ।

৪ । তথা । ঋগং লেখ্যং গৃহং ক্ষেত্রং যস্য পৈতামহং
ভবেৎ । চিরকালপ্রাষিতোহপিভাগভাগাগতস্ত সঃ ।

৫ । ন কেবলং স এবভাগভাক্ অপি তু সপ্তমপুরুষপর্য্যন্তং

[১ম পরিচ্ছেদঃ] একমাতৃকয়োবিভিন্নপিহৃকয়োবিভাগঃ । ৪৯

তৎসমুত্তয়োহপি ভাগভাজইত্যাহ সএব । গোত্রসাধারণং
ত্যক্ত্বা যোহন্যদেশঃ সমাপ্রিতঃ । তদ্বংশস্যাগতম্যাংশঃ প্রদা-
তব্যো ন সংশয়ঃ । তৃতীয়ঃ পঞ্চমোবাপি সপ্তমোবাপি যৌ
ভবেৎ । জন্মানামপরিজ্ঞানে লভেতাংশঃ ক্রমাগতং । যং পর-
স্পরয়া মৌলাঃ সামন্তাঃ আমিনঃ বিদুঃ । তদম্বয়স্যাগতস্য
দাতব্যা গোত্রজৈর্মহী ।

৬ । মৌলাআত্মীয়াঃ ।

৭ । সামন্তাঃ প্রতিবাসিনঃ ।

৮ । মহীতিসাধারণধনমাত্রোপলক্ষণং ।

৯ । তেনাবিত্ততাদশায়াঃ দেশান্তরগতস্য চিরকালান-
ন্তরং সমাগতস্য তৎসপ্তমপুরুষপর্যাস্তসমুত্তেরপি মৌলসাম-
ন্তাদিদ্ধারাস্বজ্ঞানপূর্বকং ক্রমাগতধনাং যথাশাস্ত্রমংশিত্বমি-
তিস্থিতং ।

১০ এষাচ ব্যবস্থা বিদেশগতবিষয়িণ্যেব ।

১১ । দেশস্ববিষয়ে তু ধনিশ্চত্বর্থপুরুষপর্যাস্তএব তদ্ধন-
ভাগাহতা, পঞ্চমাদেঃ পার্শ্বগপিগুদাতৃত্বাভাবেনাপকারকহা-
দিতিপ্রাগেবোক্তং ॥

দশমোঃধ্যায়ঃ ।

একমাতৃকয়োবিভিন্নপিহৃকয়োবিভাগমাহ ।

১ । বিয়ুঃ । একা মাতা দ্বয়োর্বত্র পিতরৌ দ্বৌ চ কুত্রচিৎ ।

তয়োৰ্ঘদ্বয়স্য পিত্রং স্যাৎ স তদগৃহীত নেতরঃ । যস্য বীজা-
দেহাজাতঃ স তদ্ধনং গৃহীয়াৎ, ন ইতরোহন্যবীজজ্ঞো গৃহীয়া-
দিত্যর্থঃ ।

২। তেন নাত্র সমাংশিতাদিব্যবস্থেতি ।

৩। এবং তথাবিধপুত্রাভ্যাং মাতৃধনবিভাগেহপি যস্য
পিত্রা যদ্ধনং যস্মৈ দত্তং তেনৈব তদগাহ্যং নেতরেণ । দ্বৌ-
হুতো বিবদেযোতাং দ্বাভ্যাং জাতৌ দ্বিযাধনে । তয়োৰ্ঘদ্বয়স্য
পিত্রং স্যাৎ স তদগৃহীত নেতরইতিবচনাৎ ।

৪। মাত্রা স্বয়মজ্জিহতে তুল্যাংশিতুমেব ।

একাদশোহধ্যায়ঃ ।

অথ সাধারণস্যৈকেন দেয়াদেয়বিচারঃ ।

১। অত্র কেচিৎ সাধারণমেকেনাদেয়েমেব । সামান্যং
পুত্রকন্যাভিঃ সৰ্ব্বস্বং ন্যাসযাচিতং । অদেয়ান্যাহরক্টেব
যচ্চান্যস্মৈ প্রতিশ্রুতিমিতিনুবচনে সামান্যস্য সাধারণস্য-
দেয়ত্বপ্রতিপাদনাৎ । অতএব, সাধারণস্য সমস্তস্য গোত্র-
সাধারণস্য চ । নৈকঃ কুর্য্যাৎ ক্রয়ং দানং পরস্পরমতন্মিনা ।
বিভক্তা অবিভক্তা বা সপিণ্ডাঃ স্বাবরে সমাঃ । একোহ্যনীনীশঃ
সৰ্বত্র দানাধমনবিক্রয়ে ইতিব্যাসবচনাভ্যামেকস্য দানাদ্যনীনী-
শত্বমাহঃ ।

২। এতেষাং সমান্যস্বত্ববাদিত্বাৎ সৰ্ব্বধনএব সৰ্ব্বেষাং

[১ম পরিচ্ছেদঃ] সাধারণস্যেকেন দেয়াদেয়বিচারঃ । ৫১

স্বস্থসত্ত্বাৎ একেচ্ছয়া কৃতদানবিক্রয়াদ্যসিদ্ধমিত্যাশয়ঃ । তদসৎ,
সামান্যস্বত্বস্য দায়ভাগকৃতৈব প্রমাণাভাবেন নিরসিতত্বাৎ ।

৩ । অতএব দায়ভাগকৃতৈব তদ্ব্যাসবচনং বিলিখ্য তদ্ব্যাস-
বচনাদেকস্য দানবিক্রয়াদ্যনধিকার ইতিপূর্বপক্ষয়িত্বাৎ যথেষ্ট
বিনিয়োগাহতুলক্ষণস্য স্বত্বস্য দ্রব্যান্তরবদত্রাপ্যবিশেষাৎ । বচ-
নস্ত স্বামিত্বেন দুর্বৃতপুরুষাবিক্রয়ে কুটুম্ববিরোধাদধর্মভাগিতা-
জ্ঞাপনার্থংনিষেধরূপং ন তু বিক্রয়াদ্যনিষ্পত্ত্যর্থমিতিসমাহিতং ।

৪ । অত্র চ দ্রব্যান্তরবদিত্যস্য সাধারণদ্রব্যান্তরবৎ ।

৫ । অত্রাপি, সাধারণস্বাবরাদাবপি ।

৬ । অবিশেষাৎ স্বামিত্বাবিশেষাদিত্যর্থঃ ।

৭ । সামান্যস্বত্বাভাবেন সাধারণত্বস্য নানাস্বামিকত্বরূপ-
ম্যালীকতয়া সাধারণত্বমবিভক্তত্বমেব তত্র চ সাধারণে স্বত্বস্যা-
ভাগাৎ প্রাগেবজাতত্বেন তদানীমপিস্বাংশদাবাদৌ বাধকাভাব-
ইতি প্রাদেশিকস্বত্ববাদিনোদায়ভাগকর্ত্তুরাশয়ঃ । অতএব
যদ্যেকজাতাবহবঃ পৃথক্ধর্ম্মাঃ পৃথক্ক্রিয়াঃ । পৃথক্ধর্ম্ম-
গুণোপেতা ন চেৎ কার্যেষু সম্মতাঃ । স্বভাগান্ যদি দদ্যন্তে-
বিক্রীণীয়ুর্থাপি বা । কুর্ঘ্যুর্থথেচ্ছং তৎসর্বমীশান্তে স্বধনস্য-
বৈ ইতিনারদবচনে একেন ক্রিয়মাণকার্যেষু অন্যেযামসম্মত-
ত্বেহুপি স্বভাগদানাদাবীশত্বমুক্তং ।

৮ । ন চ বিভক্তবিষয়মেতদিতিবাচ্যং । তত্রান্যেযামস্বা-
মিত্বনিশ্চয়েন তৎসম্মতেরজাগলস্তনন্যায়মানত্বাৎ । ইথঞ্চ
পূর্বলিখিতমভুবচনে যৎ সামান্যস্যাদেয়মধ্যে গণনং তন্নিষেধ-

পরমেব ন তু দানাদ্যনিষ্পত্তিপরিমিতি । এবমেব স্মৃতিসার
প্রভৃতয়ঃ ।

৯ । এতেনবিভক্তাবিত্তসমাধারণস্বাংশদানং সিধ্যতে
যেতিমিচ্ছং । এবং স্বামিনোবৈদেশ্যাদৌ তৎকুটুম্বভরণার্থং
দাসেনাপি যদৃণাদিকং কৃতং তৎ সৰ্ব্বং স্বামিনা সমাধেয়ং ।
তথাচ কুটুম্বার্থে হ্যধীনোহপিব্যবহারং যমাচরেৎ । স্বদেশে বা
বিদেশে বা তং জ্যায়াম্বিচালয়েৎ । অধীনোহপি দাসোহপি,
ব্যবহারং স্বাণাদিকং ।

দ্বাদশোহধ্যায়ঃ ।

অথ দাসানিরূপ্যন্তে ।

১ । তে চ পঞ্চদশপ্রভেদাঃ । তথাচ নারদঃ । গৃহজাত-
স্তথাক্রীতৌলকৌদায়াদুপাগতঃ । অন্নাকালভূতস্তদ্বদাহিতঃ
স্বামিনাচয়ঃ মোক্ষিতোমহতশ্চর্ণাৎ যুদ্ধেপ্রাপ্তঃ পণেজিতঃ ।
তবাহমিত্যুপগতঃ প্রব্রজ্যাবসিতঃ কৃতঃ । ভক্তদাসশ্চবিজ্ঞেয়-
স্তথৈব বড়বাকৃতঃ । বিক্রেতা চাত্মনঃ শাস্ত্রে দাসাঃ পঞ্চদশ
স্মৃতাঃ ।

২ । গৃহজাতোদাসাযুৎপন্নঃ ।

৩ । দায়াদাগতঃ ক্রমাগতঃ ।

৪ । অন্নাকালভূতঃ দুর্ভিক্ষোপাধিনা ।

৫ । স্বামিনা আহিতঃ বন্ধকীকৃতঃ ।

- ৬। মোক্ষিতইতি ঋণমোচনেনাস্তীকৃতদাস্যইত্যর্থঃ ।
 ৭। তবাহমিতি কস্যাপ্যদাসঃ সন্ স্বয়ং দাসত্বেন দত্তরূপঃ ।
 ৮। প্রত্ৰজ্যাবসিতঃ সম্যাসভ্রষ্টঃ ।
 ৯। কৃতঃ কেনচিন্নিমিত্তেনৈব তৎকালপর্য্যন্তং তবাহং দাসইতিসময়ঃ ।
 ১০। ভক্তদাসঃ স্তম্ভিক্ষেহপি ভক্তেনাস্তীকৃতদাস্যঃ ।
 ১১। বড়বা দাসী, তল্লাভাদস্তীকৃতদাস্যঃ । তথাচ
 রহস্পতিঃ । যোভুংক্তে পরদাসীন্ত সজ্ঞেয়োবড়বাকৃতঃ । কৰ্ম
 তৎস্বামিনঃ কুর্যাদযথান্নেন ভূতানরঃ ।
 ১২। তৎস্বামিনোদাসীস্বামিনঃ ।
 ১৩। প্রত্ৰজ্যাবসিতে নারদঃ । রাজ্ঞেব তু দাসঃ স্যাৎ
 প্রত্ৰজ্যাবসিতো নরঃ । ন তস্য হি বিমোক্ষোহস্তি ন বিশুদ্ধিঃ
 কথঞ্চন ।
 ১৪। এবঞ্চরাজ্ঞোদাসত্বং প্রত্ৰজ্যাবসিতয়োঃ ক্ষত্রিয়বৈশ্য-
 যোরেব, ব্রাহ্মণস্য তথাবিধস্য নির্বাসনমেব দাসত্বং । তথাচ-
 কাত্যায়নঃ । প্রত্ৰজ্যাবসিতাযত্র ত্রয়োবর্ণাঙ্গিজাতয়ঃ । নির্বাসং
 কারয়েদ্বিপ্রং দাসত্বং ক্ষত্রবিন্ পঃ ।
 ১৫। ক্ষত্রবিড়িতিসমাহারদ্বন্দ্বঃ । দ্বিতীয়ৈকবচনান্ত-
 ক্ষেপে কারয়েদিত্যস্য কৰ্ম ।

ত্রয়োদশোহধ্যায়ঃ ।

অথ দাসত্বমোচনং ।

১। এতেষাং মধ্যে তু গৃহজাতাদিচতুর্গাং আত্মবিক্রেতু-
শ্চ স্বামিপ্ৰসাদং বিনা ন দাস্যমোক্ষঃ ।

২। অম্বাকালভূতস্তুভির্জৈয়দ্বন্ধিতং তদগোযুগসহিতং
দত্ত্বা মুচ্যেত ।

৩। ভক্তদাসোভক্তত্যাগাৎ ।

৪। বড়বাক্তস্তস্ত বড়বাত্যাগাৎ মুচ্যেত ।

৫। আহিতস্য স্বমিনাকৃতোদ্ধারে উত্তমর্গদাস্যাম্মোচনং ।

৬। এবমেষাং মধ্যে যঃ স্বমিনং প্রাণসংশয়াৎ মহা-
শঙ্কটাস্থা মোক্ষয়েৎ স দাস্যাম্মুচ্যেত ।

৭। কাত্যায়নঃ । দাসেনোঢ়া হৃদাসী যা সাপি দাসীত্বমা-
প্নুয়াৎ । যস্মাদ্ভর্তা প্রভুস্তস্যং স্বাম্যধীনঃ প্রভূর্যতঃ ।

৮। অত্রদাসীপদস্যসম্বন্ধিকতয়া তদুপস্থাপিতস্বামিন-
এবদাসী ।

৯। সাচ দ্বিবিধা । কস্যাপি ন দাসী অন্যদাসী চ ।

১০। তত্রপূর্ব্বা দাসোঢ়াস্বমাত্রৈণৈব দাসেশ্বরস্য দাসী ।

১১। পরা চ তৎপ্রভোরনুমতিসহকারেণাননুমতা চ
ন দাসী ।

১২। এবং তুল্যান্যায়েন কস্যাপ্যদাসোযদি দাসীং পরি-
ণয়তি তদাপরিণেতা দাসীশ্বরস্য দাসোভবতি ।

১৩। অন্যদাসশ্চেৎ পরিণেতাদাসেশ্বরস্যানুমত্যা দাসী-
শ্বরস্যদাসঃ ।

১৪। এবঞ্চ যদ্যনুমত্যা দাসেন দাসীপরিণীতা তদা স্ব-
স্বামিনোরৈব দাসদাস্যৌ তয়োৰপত্যস্ত দ্বাভ্যামেব স্বামিভ্যাং
বিভজনীয়ং ।

১৫। ন চ ওষবাতাহতং বীজং যস্য ক্ষেত্রে প্ররোহতি ।
ক্ষেত্রিকসৈব তদ্বীজং ন বপ্তা ফলমহতি । এষধর্ম্মোগবাস্তস্য
দাস্যপ্তোজাবিকস্য চ । বিহঙ্গমহিষীণাঞ্চ বিজ্ঞেয়ঃ প্রসবং
প্রতি ইতিমনুবচনাদাসীশ্বরসৈব তদপত্যমিতিবাচ্যং । তত্র
দাসীশব্দস্য পরোঢাদাসীপরত্বাৎ । স্বয়মুঢ়ায়াস্ত দাস্যাং তথা-
বিধাপত্যস্য বিভাজ্যত্বমেবেতিস্মার্ত্তমতমপ্যেতদिति ।

১১। ইতি শ্রীকৃষ্ণতর্কালঙ্কারভট্টাচার্য্যবিরচিতক্রমসং-
গ্রহঃ সমাপ্তঃ ।

ভবানীপুর জেলিয়াপাড়া রোড, ২৮ নং সুবরবন্দু যন্ত্রে শ্রীযুক্ত প্রিয়-
নাথ মল্লিক দ্বারা মুদ্রিত ।



